

FILED

Date 7/30/14 By

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7
8 **BEFORE THE**
STRUCTURAL PEST CONTROL BOARD
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2014-62

11 **FIRESTONE TERMITE, INC.; FRANCISCO**
12 **LOPEZ, PRESIDENT**
13 570 E. Arrow Highway, Ste. G
San Dimas, CA 91773

FIRST AMENDED
ACCUSATION

14 **Company Registration Certificate No. PR 6588, Br. 3**

15 **FREDDY LOZA**
16 13108 Avonlea Avenue,
Norwalk, CA 90650

17 **Operator's License No. OPR 11496, Br. 3**

18 **MANCE LARALE PEETE**
19 P.O. Box 21281
Long Beach, CA 90801

20 **Operator's License No. OPR 11021, Br. 2 and 3**

21 Respondents.

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24 Complainant alleges:

25 **PARTIES**

26 1. Susan Saylor ("Complainant") brings this First Amended Accusation solely in her
27 official capacity as the Registrar/Executive Officer of the Structural Pest Control Board,
28 Department of Consumer Affairs.

1 "Every property inspected pursuant to subdivision or Section 8518 shall be assessed a filing
2 fee pursuant to Section 8674.

3 "Failure of a registered company to report and file with the board the address of any
4 property inspected or work completed pursuant to Section 8518 or this section is grounds for
5 disciplinary action and shall subject the registered company to a fine of not more than two
6 thousand five hundred dollars (\$2,500).

7 "A written inspection report conforming to this section and on a form approved by the board
8 shall be prepared and delivered to the person requesting the inspection or to the person's
9 designated agent within 10 business days of the inspection, except that an inspection report
10 prepared for use by an attorney for litigation purposes is not required to be reported to the board.
11 The report shall be delivered before work is commenced on any property. The registered company
12 shall retain for three years all original inspection reports, field notes, and activity forms.

13 "Reports shall be made available for inspection and reproduction to the executive officer of
14 the board or his or her duly authorized representative during business hours. Original inspection
15 reports or copies thereof shall be submitted to the board upon request within two business days.
16 The following shall be set forth in the report:

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18 "(5) A general description of the building or premises inspected.

19 "(6) A foundation diagram or sketch of the structure or structures or portions of the
20 structure or structures inspected, indicating thereon the approximate location of any infested or
21 infested areas evident, and the parts of the structure where conditions that would ordinarily subject
22 those parts to attack by wood destroying pests or organisms exist.

23 "(7) Information regarding the substructure, foundation walls and footings, porches, patios
24 and steps, air vents, abutments, attic spaces, roof framing that includes the eaves, rafters, fascias,
25 exposed timbers, exposed sheathing, ceiling joists, and attic walls, or other parts subject to attack
26 by wood destroying pests or organisms. Conditions usually deemed likely to lead to infestation or
27 infection, such as earth-wood contacts, excessive cellulose debris, faulty grade levels, excessive
28 moisture conditions, evidence of roof leaks, and insufficient ventilation are to be reported.

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“(10) Recommendations for corrective measures.”

10. Section 8518 states:

"When a registered company completes work under a contract, it shall prepare, on a form prescribed by the board, a notice of work completed and not completed, and shall furnish that notice to the owner of the property or the owner's agent within 10 working days after completing the work. The notice shall include a statement of the cost of the completed work and estimated cost of work not completed.

"The address of each property inspected or upon which work was completed shall be reported on a form prescribed by the board and shall be filed with the board no later than 10 working days after completed work.

"Every property upon which work is completed shall be assessed a filing fee pursuant to Section 8674.

"Failure of a registered company to report and file with the board the address of any property upon which work was completed pursuant to subdivision(b) of Section 8516, subdivision (b) of Section 8516 or Section 8518 is grounds for disciplinary action and shall subject the registered company to a fine of not more than two thousand five hundred dollars (\$2,500).

"The registered company shall retain for three years all original notices of work completed, work not completed, and activity forms.

"Notices of work completed and not completed shall be made available for inspection and reproduction to the executive officer of the board or his or her duly authorized representative during business hours. Original notices of work completed or not completed or copies thereof shall be submitted to the board upon request within two business days."

11. Section 8567 states:

"Should a field representative or applicator change his or her employment, or should an operator enter the employ of a registered company, or being already employed by a registered company change his or her employment, or being employed by a registered company leave that employment and enter the pest control business on his or her own behalf, he or she shall notify the

1 registrar in writing, on a form prescribed by the board and issued by the registrar in accordance
2 with rules and regulations adopted by the board. Whereupon the registrar shall register the change
3 in his or her records.”

4 12. Section 8610 states, in pertinent part:

5 “(c) Each registered company shall designate an individual or individuals who hold an
6 operator's license to act as its qualifying manager or managers. The qualifying manager or
7 managers must be licensed in each branch of pest control in which the company engages in
8 business. The designated qualifying manager or managers shall supervise the daily business of the
9 company and shall be available to supervise and assist all employees of the company, in accordance
10 with regulations which the board may establish.”

11 13. Section 8613 states:

12 “A registered company which changes the location of its principal office or any branch office
13 or which changes its qualifying manager, branch supervisor, officers, or its bond or insurance shall
14 notify the registrar in writing of such change within 30 days thereafter. A fee for filing such
15 changes shall be charged in accordance with Section 8674.”

16 14. Section 8618 states: “Documents as specified by regulation must be maintained by all
17 registered companies for three years.”

18 15. Section 8622 states:

19 “When a complaint is accepted for investigation of a registered company, the board, through
20 an authorized representative, may inspect any or all properties on which a report has been issued
21 pursuant to Section 8516 or a notice of completion has been issued pursuant to Section 8518 by
22 the registered company to determine compliance with the provisions of this chapter and the rules
23 and regulations issued thereunder. If the board determines the property or properties are not in
24 compliance, a notice shall be sent to the registered company so stating. The registered company
25 shall have 30 days from the receipt of the notice to bring such property into compliance, and it
26 shall submit a new original report or completion notice or both and an inspection fee of not more
27 than one hundred twenty-five dollars (\$125) for each property inspected. If a subsequent
28 reinspection is necessary, pursuant to the board's review of the new original report or notice or

1 both, a commensurate reinspection fee shall also be charged. If the board's authorized
2 representative makes no determination or determines the property is in compliance, no inspection
3 fee shall be charged.

4 "The notice sent to the registered company shall inform the registered company that if it
5 desires a hearing to contest the finding of noncompliance, the hearing shall be requested by written
6 notice to the board within 20 days of receipt of the notice of noncompliance from the board.
7 Where a hearing is not requested pursuant to this section, payment of any assessment shall not
8 constitute an admission of any noncompliance charged."

9 16. Section 8638 states that "[f]ailure on the part of a registered company to complete any
10 operation or construction repairs for the price stated in the contract for such operation or
11 construction repairs or in any modification of such contract is a ground for disciplinary action."

12 17. Section 8639 states:

13 "Aiding or abetting an unlicensed individual or unregistered company to evade the provisions
14 of this chapter or knowingly combining or conspiring with an unlicensed individual or unregistered
15 company, or allowing one's license or company registration to be used by an unlicensed individual
16 or unregistered company, or acting as agent or partner or associate, or otherwise, of an unlicensed
17 individual or unregistered company to evade the provisions of this chapter is a ground for
18 disciplinary action."

19 18. Section 8641 states:

20 "Failure to comply with the provisions of this chapter, or any rule or regulation adopted by
21 the board, or the furnishing of a report of inspection without the making of a bona fide inspection
22 of the premises for wood-destroying pests or organisms, or furnishing a notice of work completed
23 prior to the completion of the work specified in the contract, is a ground for disciplinary action."

24 19. Section 8642 states that "[t]he commission of any grossly negligent or fraudulent act
25 by the licensee as a pest control operator, field representative, or applicator or by a registered
26 company is a ground for disciplinary action."

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1 20. Section 8644 states:

2 "Fraud or misrepresentation, after inspection, by any licensee or registered company engaged
3 in pest control work of any infestation or infection of wood-destroying pests or organisms found in
4 property or structures, or respecting any conditions of the structure that would ordinarily subject
5 structures to attack by wood-destroying pests or organisms, whether or not a report was made
6 pursuant to Sections 8516 and 8517 of this code, is a ground for disciplinary action."

7 21. Section 8650 states:

8 "Acting in the capacity of a licensee or registered company under any of the licenses or
9 registrations issued hereunder except:

10 "(a) In the name of the licensee or registered company as set forth upon the license or
11 registration, or

12 "(b) At the address and location or place or places of business as licensed or registered or as
13 later changed as provided in this chapter is a ground for disciplinary action."

14 22. Section 8652 of the Code states:

15 "Failure of a registered company to make and keep all inspection reports, field notes,
16 contracts, documents, notices of work completed, and records, other than financial records, for a
17 period of not less than three years after completion of any work or operation for the control of
18 structural pests or organisms, is a ground for disciplinary action. These records shall be made
19 available to the executive officer of the board or his or her duly authorized representative during
20 business hours."

21 23. Section 8654 of the Code states:

22 "Any individual who has been denied a license for any of the reasons specified in Section
23 8568, or who has had his or her license revoked, or whose license is under suspension, or who has
24 failed to renew his or her license while it was under suspension, or who has been a member,
25 officer, director, associate, qualifying manager, or responsible managing employee of any
26 partnership, corporation, firm, or association whose application for a company registration has
27 been denied for any of the reasons specified in Section 8568, or whose company registration has
28 been revoked as a result of disciplinary action, or whose company registration is under suspension,

1 and while acting as such member, officer, director, associate, qualifying manager, or responsible
2 managing employee had knowledge of or participated in any of the prohibited acts for which the
3 license or registration was denied, suspended or revoked, shall be prohibited from serving as an
4 officer, director, associate, partner, qualifying manager, or responsible managing employee of a
5 registered company, and the employment, election or association of such person by a registered
6 company is a ground for disciplinary action."

7 **REGULATORY PROVISIONS**

8 24. California Code of Regulations, title 16, section 1911, states:

9 "Each operator, field representative and applicator shall file his or her address of record with
10 the board and shall notify the board of any change in address within ten (10) days of such change.
11 The address of record of a field representative, an operator or an applicator shall be the address of
12 the registered company by which he or she is employed or with which he or she is associated or his
13 or her residence address if he or she is not employed and associated.

14 "Each licensee shall also file his or her address for mailing purposes with the board and shall
15 notify the board of any change in address within ten (10) days of such change."

16 25. California Code of Regulations, title 16, section 1918, states:

17 "'Supervise' as used in Business and Professions Code Sections 8506.2, 8610 and 8611
18 means the oversight, direction, control, and inspection of the daily business of the company and its
19 employees, and the availability to observe, assist, and instruct company employees, as needed to
20 secure full compliance with all laws and regulations governing structural pest control.

21 "In cases of ownership of more than one registered company by the same sole owner,
22 corporation or partnership where the qualifying manager or managers cannot supervise each
23 registered company because of the location of the companies, the qualifying manager or managers
24 may designate an individual or individuals licensed as an operator or as a field representative in the
25 branch or branches of business being conducted to supervise the company. This designated
26 supervisor or supervisors must be under the direct supervision of the qualifying manager or
27 managers. Any such designation of supervisors does not relieve the qualifying manager or
28 managers of responsibility to supervise as required in sections 8506.2 and 8610."

1 26. California Code of Regulations, title 16, section 1937.14, states:

2 “All work completed by licensees or registered companies shall be done within the specific
3 requirements of any plans or specifications and shall meet accepted trade standards for good and
4 workmanlike construction in any material respect, and shall comply with provisions of Section
5 2516(c)(1), (2), (4) and (6) of Title 24, California Code of Regulations.”

6 27. California Code of Regulations, title 16, section 1970, states:

7 “For the purpose of maintaining proper standards of safety and the establishment of
8 responsibility in handling the dangerous gases used in fumigation and the pesticides used in other
9 pest control operations, a registered company shall compile and retain for a period of at least three
10 years, a log for each fumigation job and for each pesticide control operation in which a pesticide is
11 used by the registered company or the registered company's employee. If the fumigation is to be
12 performed by a fumigation subcontractor, the subcontractor shall complete the fumigation log and
13 forward a copy of the log to the primary contractor within ten business days.”

14 28. California Code of Regulations, title 16, section 1990, states:

15 “(a) All reports shall be completed as prescribed by the board. Copies filed with the board
16 shall be clear and legible. All reports must supply the information required by Section 8516 of the
17 Code and the information regarding the pesticide or pesticides used as set forth in Section 8538 of
18 the Code, and shall contain or describe the following:

19

20 “(3) Infestations, infections or evidence thereof.

21 “(4) Wood members found to be damaged by wood destroying pests or organisms.

22 “(b) Conditions usually deemed likely to lead to infestation or infection include, but are not
23 limited to:

24 “(1) Faulty Grade Level. A faulty grade level exists when the top of any foundation is even
25 with or below the adjacent earth. The existing earth level shall be considered grade

26 “(2) Inaccessible subareas or portions thereof and areas where there is less than 12 inches
27 clear space between the bottom of the floor joists and the unimproved ground area.

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1 “(3) Excessive Cellulose Debris. This is defined as any cellulose debris of a size that can be
2 raked or larger. Stumps and wood imbedded in footings in earth contact shall be reported.

3 “(4) Earth-wood contacts.

4 “(5) Commonly controllable moisture conditions which would foster the growth of a fungus
5 infection materially damaging to woodwork.

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7 “(e) Information regarding all accessible areas of the structure including but not limited to
8 the substructure, foundation walls and footings, porches, patios and steps, stairways, air vents,
9 abutments, stucco walls, columns, attached structures or other parts of a structure normally
10 subject to attack by wood-destroying pests or organisms.

11 “(f) The following language shall appear just prior to the first finding/recommendation on
12 each separated report: ‘This is a separated report which is defined as Section I/Section II
13 conditions evident on the date of the inspection. Section I contains items where there is visible
14 evidence of active infestation, infection or conditions that have resulted in or from infestation of
15 infection. Section II items are conditions deemed likely to lead to infestation or infection but where
16 no visible evidence of such was found. Further inspection items are defined as recommendations to
17 inspect area(s) which during the original inspection did not allow the inspector access to complete
18 the inspection and cannot be defined as Section I or Section II.’”

19 29. California Code of Regulations, title 16, section 1996.3, states, in pertinent part:

20 “(a) The address of each property inspected and/or upon which work was completed shall
21 be reported on a form prescribed by the Board and designated as the WDO Inspection and
22 Completion Activity Report Form (see Form No. 43M-52 Rev. 5/09) at the end of this section.
23 This form shall be prepared by each registered company and shall comply with all of the
24 requirements pursuant to Section 8516(b), and 8518.

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26 “(c) Failure of a registered company to report and file with the Board the address of any
27 property inspected or upon which work was completed pursuant to Section 8516(b) or 8518 are

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1 grounds for disciplinary action and subject to a fine of not more than two thousand five hundred
2 dollars (\$ 2,500).”

3 **COST RECOVERY**

4 30. Section 125.3 states, in pertinent part, that a Board may request the administrative
5 law judge to direct a licentiate found to have committed a violation or violations of the licensing
6 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
7 case.

8 31. Section 11519, subdivision (d), of the Government Code provides, in pertinent part,
9 that the Board may require restitution of damages suffered as a condition of probation in the event
10 probation is ordered.

11 **KAJIKYAN PROJECT**

12 32. On or about August 30, 2013, Respondent Firestone inspected the property located at
13 1532 Winchester Avenue, Glendale, California (“Kajikyan Property”), for wood destroying pests
14 and organisms for escrow purposes and thereafter issued complete Wood Destroying Pests and
15 Organisms Inspection Report W8335. The complete inspection report, signed by Respondent
16 Loza, contained eight findings and recommendations for termite damage, surface fungus infection,
17 subterranean termite infestations, drywood termite infestations, and dry rot. The completion
18 report included an invoice for \$485.00.

19 33. On or about September 17, 2013, Respondent Firestone issued a Standard Notice of
20 Work Completed and Not Completed for the inspection report W8335, this completion notice
21 indicated that all items were completed by Respondent Firestone and included a certification of the
22 property.

23 34. On or about October 3, 2013, Surf City Pest Control (“Surf City”) performed a
24 complete separated inspection report, number W8867, for the Kajikyan Property.

25 35. On or about October 7, 2013, the Board received a 20 page complaint from Ms.
26 Kajikyan, stating that the September 17, 2013, completion notice is not accurate and that repairs
27 were not completed.

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1 36. On or about October 17, 2013, Surf City issued a completion notice for the Kajikyan
2 Property. The completion notice indicated, with one exception, that all items were completed by
3 Surf City for \$5,651.00. With the \$485.00 that was paid to Firestone through Escrow, the total
4 amount paid for work on the Kajikyan Property was \$6,136.00.

5 37. On or about November 15, 2013, Board Specialist Donald Graves (“Specialist
6 Graves”) received the case file for the Kajikyan Property.

7 38. On or about November 22, 2013, Specialist Graves traveled to Respondent Firestone’s
8 address of record at 1338 Center Court Drive, Suite 110, Covina, CA 91724. Specialist Graves
9 could not locate anyone at the office and the office appeared deserted. Specialist Graves also
10 noted that a business card had been left on the door from a different Board specialist from a prior
11 visit. Specialist Graves called Respondent Firestone’s phone number of record and spoke to a
12 representative who, while not at the office, said the office should be open.

13 39. On or about December 2, 2013, Specialist Graves performed a Wood Destroying
14 Organisms (“WDO”) activity report search and found no WDO activity submittals for the Kajikyan
15 Property.

16 40. On or about December 3, 2013, after making many attempts to review the property
17 records at Respondent Firestone’s address of record, Specialist Graves found Respondent
18 Firestone operating at 570 E. Arrow Highway, Suite G, San Dimas. The address was not
19 registered and had never been registered with the Board.

20 41. On or about December 14, 2013, Specialist Graves performed another WDO activity
21 report search and found no WDO activity submittals for the Kajikyan Property.

22 42. On or about December 15, 2013, Specialist Graves learned that Respondent Loza
23 disassociated as the qualifying manager from Firestone on October 11, 2012. Respondent Loza
24 had never sent the Board any written notifications regarding his employment status with
25 Respondent Firestone.

26 43. On or about December 17, 2013, Specialist Graves spoke with Respondent Peete, the
27 qualifying manager of Firestone, and asked if he knew where Firestone’s office is located.
28 Respondent Peete stated that Firestone’s office is located in Covina. Respondent Peete also gave

1 Specialist Graves a phone number which went straight to a voicemail box without any names or
2 greetings. When asked when he had last went to Firestone's Covina office, Respondent Peete
3 stated that he "called them a couple of days ago."

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Operating at an Address not Registered with the Board)**

6 44. Respondent Firestone and Respondent Peete are subject to disciplinary action under
7 section 8650, subdivision (b), in that, with respect to the Kajikyan Property, Respondent Firestone
8 acted in the capacity of a registered company at an address that is not, nor has ever been,
9 registered with the Board. The circumstances are described in additional detail in paragraphs 32,
10 33, 38 and 40, above, which are hereby incorporated by reference as though set forth fully.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Failure to Maintain Records)**

13 45. Respondent Firestone and Respondent Peete are subject to disciplinary action under
14 section 8618, section 8652 and California Code of Regulations, title 16, section 1970, in that, with
15 respect to the Kajikyan Property, Respondents failed to keep and maintain all records regarding
16 structural pest control activities performed in the past three years. The circumstances are
17 described in additional detail in paragraphs 38 through 41, inclusive, which are hereby
18 incorporated by reference as though set forth fully.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Failure to Complete Work Prior to Furnishing Completion Notice)**

21 46. Respondent Firestone, Respondent Peete and Respondent Loza are subject to
22 disciplinary action under section 8641 in that Respondents failed to complete work on the
23 Kajikyan Property prior to furnishing a completion notice. The circumstances are described in
24 additional detail in paragraphs 32, 33, 35, 36, 39, and 41, above, which are hereby incorporated by
25 reference as though set forth fully.

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1 circumstances are described in additional detail in paragraphs 32 through 43, inclusive, which are
2 hereby incorporated by reference as though set forth fully.

3 **SEVENTH CAUSE FOR DISCIPLINE**

4 **(Failure of Qualifying Managers to Properly Supervise)**

5 50. Respondent Firestone and Respondent Peete are subject to disciplinary action under
6 section 8610, subdivision (c), and California Code of Regulations, title 16, section 1918, in that,
7 with respect to the Kajikyan Property, Respondent Firestone failed to designate a qualifying
8 manager to supervise the daily business of the company and be available to supervise and assist all
9 employees of the company and Respondent Peete failed to supervise the daily business of the
10 company and be available to supervise and assist all employees of the company. The
11 circumstances are described in additional detail in paragraphs 32 through 43, inclusive, which are
12 hereby incorporated by reference as though set forth fully.

13 **EIGHTH CAUSE FOR DISCIPLINE**

14 **(Failure to Notify Registrar of Employment)**

15 51. Respondent Loza is subject to disciplinary action under section 8567 and California
16 Code of Regulations, title 16, section 1911, in that Respondent Loza failed to notify the registrar
17 in writing when he entered into employment with Respondent Firestone. The circumstances are
18 described in additional detail in paragraphs 32 and 42, above, which are hereby incorporated by
19 reference as though set forth fully.

20 **PEREZ PROJECT**

21 52. On or about September 24, 2013, Respondent Firestone inspected the property
22 located at 113th Street, Los Angeles, California ("Perez Property"), and issued complete Wood
23 Destroying Pests and Organisms Inspection Report No. W8490. The complete inspection report,
24 signed by Respondent Loza, contained eight findings and recommendations for stall shower leaks,
25 termite damage, dry rot, drywood termite infestations, and subterranean termite infestations.

26 53. On or about September 30, 2013, Respondent Firestone issued a Standard Notice of
27 Work Completed and Not Completed for inspection report No. W8490, this completion notice
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1 indicated that all items were completed by Respondent Firestone and included a certification of the
2 property as well as an invoice for \$4,440.00.

3 54. On or about November 15, 2013, the Board received a complaint from Mr. Perez,
4 who wrote that work had not been completed even though the company issued a completion
5 report and that no work had been done after escrow had closed.

6 55. On or about January 9, 2014, Specialist Graves received the case file for the Perez
7 Property.

8 56. On or about January 17, 2014, Specialist Graves traveled to the Perez Property and
9 determined that Respondent Firestone failed to report twenty-nine (29) violations. Specialist
10 Graves prepared a Report of Findings to Respondent Firestone for the 29 violations.

11 57. On or about January 22, 2014, the Board processed a change of address for
12 Respondent Firestone to a new address of record at 570 E. Arrow Highway, #G, San Dimas, CA
13 91773. However, Respondent Firestone had been operating in the capacity of a registered
14 company at this address prior to the Board processing the change of address request.

15 58. On or about January 27, 2014, the Report of Findings prepared on January 17, 2014,
16 was signed for and received by Susi Garcia from Respondent Firestone.

17 59. On or about February 12, 2014, Specialist Graves performed a WDO activity report
18 and found no WDO activity submittals for the Perez Property.

19 60. On or about February 19, 2014, Respondent Firestone requested an extension to
20 comply with the Report of Findings. The request was denied due to Respondent Firestone's
21 repeated delays and failures to show up for scheduled appointments.

22 61. On or about March 4, 2014, Specialist Graves performed a second WDO activity
23 report and again found no WDO activity submittals for the Perez Property. By this date
24 Respondent Firestone had also still failed to comply with the January 17, 2014, Report of Findings.

25 **NINTH CAUSE FOR DISCIPLINE**

26 **(Operating at an Address not Registered with the Board)**

27 62. Respondent Firestone and Respondent Peete are subject to disciplinary action under
28 section 8650, subdivision (b), in that, with respect to the Perez Property, Respondent Firestone

1 acted in the capacity of a registered company at an address that, prior to January 22, 2014, was
2 not registered with the Board. The circumstances are described in additional detail in paragraphs
3 in paragraphs 52, 53 and 57, above, which are hereby incorporated by reference as though set
4 forth fully.

5 **TENTH CAUSE FOR DISCIPLINE**

6 **(Failure to Maintain Records)**

7 63. Respondent Firestone is subject to disciplinary action under section 8618, section 8652
8 and California Code of Regulations, title 16, section 1970, in that, with respect to the Perez
9 Property, Respondent Firestone failed to keep and maintain all records regarding structural pest
10 control activities performed in the past three years. The circumstances are described in additional
11 detail in paragraphs 52, 53, 57, 59, and 61, above, which are hereby incorporated by reference as
12 though set forth fully.

13 **ELEVENTH CAUSE FOR DISCIPLINE**

14 **(Failure to Complete Work Prior to Furnishing Completion Notice)**

15 64. Respondent Firestone, Respondent Peete and Respondent Loza are subject to
16 disciplinary action under section 8641 in that, Respondents failed to complete work on the Perez
17 Property prior to furnishing a completion notice. The circumstances are described in additional
18 detail in paragraphs 52, 53, and 56, above, which are hereby incorporated by reference as though
19 set forth fully.

20 **TWELFTH CAUSE FOR DISCIPLINE**

21 **(Failure to File and/or Timely File WDO Activities)**

22 65. Respondent Firestone, Respondent Peete and Respondent Loza are subject to
23 disciplinary action under section 8516, subdivision (b), section 8518 and California Code of
24 Regulations, title 16, section 1996.3, in that, with respect to the Perez Property, Respondents
25 failed to file WDO activity reports with the Board, within 10 business days after commencement of
26 an inspection or upon completed work. The circumstances are described in additional detail in
27 paragraphs 52, 53, 59 and 61, above, which are hereby incorporated by reference as though set
28 forth fully.

1 **THIRTEENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Complete Work Reported on Inspection Report)**

3 66. Respondent Firestone, Respondent Peete and Respondent Loza are subject to
4 disciplinary action under section 8638 in that, with respect to the Perez Property, Respondents
5 failed to complete the work reported on the September 24, 2013, inspection report, which was
6 further certified as having been completed on the September 30, 2013, completion notice. The
7 total amount of the material injury paid as a result of Respondents conduct on the Perez Property
8 was \$4,440.00. The circumstances are described in additional detail in paragraphs 52, 53, and 56,
9 above, which are hereby incorporated by reference as though set forth fully.

10 **FOURTEENTH CAUSE FOR DISCIPLINE**

11 **(Gross Negligence or Fraudulent Act)**

12 67. Respondent Firestone, Respondent Peete and Respondent Loza are subject to
13 disciplinary action under section 8642 and section 8644 in that, with respect to the Perez Property,
14 the filing of the September 30, 2013, completion notice prior to the completion of the work
15 specified in the contract, and the issuance of an invoice for the work that had not been completed,
16 by Respondent Firestone amounts to gross negligence and/or is a fraudulent act. The
17 circumstances are described in additional detail in paragraphs 52 through 61, inclusive, which are
18 hereby incorporated by reference as though set forth fully.

19 **FIFTEENTH CAUSE FOR DISCIPLINE**

20 **(Failure of Qualifying Managers to Properly Supervise)**

21 68. Respondent Firestone and Respondent Peete are subject to disciplinary action under
22 section 8610, subdivision (c), and California Code of Regulations, title 16, section 1918, in that,
23 with respect to the Perez Property, Respondent Firestone failed to designate a qualifying manager
24 to supervise the daily business of the company and be available to supervise and assist all
25 employees of the company and Respondent Peete failed to supervise the daily business of the
26 company and be available to supervise and assist all employees of the company. The
27 circumstances are described in additional detail in paragraphs 52 through 61, inclusive, which are
28 hereby incorporated by reference as though set forth fully.

1 **SIXTEENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Report of Findings)**

3 69. Respondent Firestone, Respondent Peete and Respondent Loza are subject to
4 disciplinary action under section 8622 in that, with respect to the Perez Property, Respondents
5 failed to correct the items described in the January 17, 2014, Report of Findings, received by
6 Respondent Firestone on January 27, 2014, within thirty calendar days of receipt of the Notice,
7 and by failing to bring the Perez Property into compliance with the January 17, 2014, Report of
8 Findings. The circumstances are described in additional detail in paragraphs 56, 58, 60 and 61,
9 above, which are hereby incorporated by reference as though set forth fully.

10 **OBERTHOLTZER PROJECT**

11 70. On or about August 24, 2013, Respondent Firestone inspected the property located at
12 1569 West Evans Street, San Bernardino, California ("Oberholtzer Property"), for wood
13 destroying pests and organisms for escrow purposes and thereafter issued complete Wood
14 Destroying Pests and Organisms Inspection Report W8295. The complete inspection report,
15 bearing Respondent Loza's name, signature and license number contained nine findings and
16 recommendations for termite damage, surface fungus infection, subterranean termite infestations,
17 and drywood termite infestations. The completion report included an estimate of \$1,485.00 to
18 complete the work.

19 71. On or about October 31, 2013, Respondent Firestone issued a Standard Notice of
20 Work Completed and Not Completed for the inspection report W8295, this completion notice
21 indicated that all items were completed by Respondent Firestone for a total cost of \$1,485.00 and
22 included a certification of the property.

23 72. On or about November 21, 2013, Arrowhead Termite Control, Inc., performed a
24 complete separated inspection report, number 6827, for the Oberholtzer Property.

25 73. On or about December 6, 2013, Board Specialist Steven Smith ("Specialist Smith")
26 received a phone call from Mr. Loveridge, the contractor working on the Oberholtzer Property
27 regarding Respondent Firestone's failure to properly inspect the Oberholtzer Property.
28

1 74. On or about December 10, 2013, Specialist Smith traveled to Respondent Firestone's
2 physical location at 570 E. Arrow Highway, Suite G, San Dimas in order to review Respondent
3 Firestone's file on the Oberholtzer Property. While at Respondent Firestone's office, Specialist
4 Smith observed piles of recent inspection reports all containing the name and license number of
5 Respondent Loza.

6 75. On or about December 17, 2013, the Board received a complaint from Mr.
7 Oberholtzer, stating that Respondent Firestone had failed to perform a diligent WDO inspection
8 and failed to complete the necessary work prior to the close of escrow and that Respondent
9 Firestone never inspected the attic or substructure of the Oberholtzer Property.

10 76. On or about December 19, 2013, Specialist Smith traveled to the Oberholtzer
11 Property, took photographs and made notes on his field work sheet of 28 different findings
12 including evidence of subterranean termites, excessive moisture conditions, inaccessible portions of
13 the substructure, evidence of drywood termites, decay fungi damage, substandard repair work by
14 Respondent Firestone, and corresponding property damage.

15 77. On or about December 27, 2013, Specialist Smith performed a Wood Destroying
16 Organisms ("WDO") activity report search and found that Respondent Firestone had failed to file
17 its August 24, 2013, inspection report as well as the October 31, 2013, completion notice, with the
18 Board for the Oberholtzer Property.

19 78. On or about December 30, 2013, Specialist Smith prepared a Report of Findings for
20 20 violations by Respondent Firestone at the Oberholtzer Property. Copies of the Report of
21 Findings were mailed to Respondent Firestone, Respondent Peete, and Respondent Loza.

22 79. On or about January 24, 2014, Specialist Smith met with Respondent Loza, who told
23 Specialist Smith that he had no knowledge of the Oberholtzer Property, that he did not perform
24 the inspection and that he has no knowledge of any other inspection reports containing his name
25 and license number.

26 80. On or about February 2, 2014, Specialist Smith received a telephone message from
27 Mr. Loveridge that Respondent Firestone came to inspect the Oberholtzer Property on February 1,
28 2014.

1 81. On or about February 6, 2014, Specialist Smith received an email that Respondent
2 Firestone had scheduled another inspection for February 11, 2014.

3 82. On or about February 11, 2014, personnel from Respondent Firestone arrived over an
4 hour late and, after discussions with Specialist Smith, Respondent Firestone's inspector refused to
5 perform an inspection, stating that he would be no longer working for Respondent Firestone.

6 83. On or about February 14, 2014, personnel from Respondent Firestone again arrived
7 over an hour late for an inspection, and Respondent Peete arrived approximately 45 minutes later.
8 Respondent Peete stated he was unable to perform the inspection at that time but would come
9 back on another date.

10 84. On or about February 15, 2014, Respondent Peete performed an inspection of the
11 Oberholtzer Property.

12 85. On or about February 17, 2014, the 30 days for Respondent Firestone to bring the
13 Oberholtzer Property into compliance with the Board's Report of Findings expired.

14 86. On or about February 18, 2014, Specialist Smith received a letter Respondent Peete
15 faxed to the Board disassociating as the Qualifying Manager of Respondent Firestone. Respondent
16 Peete wanted the disassociation to be effective February 13, 2014.

17 87. On the same date Specialist Smith received by email a copy of Respondent Firestone's
18 Wood Destroying Pests and Organisms Inspection Report W8009 ("Inspection Report W8009")
19 signed by Respondent Peete.

20 88. On or about February 20, 2014, Specialist Smith informed Respondent Peete and
21 Respondent Firestone that Inspection Report W8009 was not in compliance because it incorrectly
22 categorized the inaccessible portions of the substructure and the patio, the report also failed to
23 make proper findings regarding decay fungi damage, the old termite droppings in the substructure,
24 and the report failed to identify the form boards in the substructure, subterranean termite damage,
25 evidence of excessive moisture conditions, earth to wood contact, inaccessible portions of the
26 substructure, whether the stall shower was water tested, the full extent of the substandard repair
27 work, and the unknown damage in the second story eaves

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1 1937.14, in that Respondents failed to complete work on the Oberholtzer Property as reported on
2 the August 24, 2013 inspection report, which was further certified as having been completed on
3 the October 31, 2013, completion notice. Respondents also failed to complete the work actually
4 performed in a quality and workmanlike manner. The circumstances are described in additional
5 detail in paragraphs 70, 71, 76, 78, 79, and 90, above, which are hereby incorporated by reference
6 as though set forth fully.

7 **TWENTIETH CAUSE FOR DISCIPLINE**

8 **(Failure of Qualifying Managers to Properly Supervise)**

9 94. Respondent Firestone and Respondent Peete are subject to disciplinary action under
10 section 8610, subdivision (c), and California Code of Regulations, title 16, section 1918, in that,
11 with respect to the Oberholtzer Property, Respondent Firestone failed to designate a qualifying
12 manager to supervise the daily business of the company and be available to supervise and assist all
13 employees of the company and Respondent Peete failed to supervise the daily business of the
14 company and be available to supervise and assist all employees of the company. The
15 circumstances are described in additional detail in paragraphs 70 through 90, inclusive, which are
16 hereby incorporated by reference as though set forth fully.

17 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

18 **(Failure to Comply with Report of Findings)**

19 95. Respondent Firestone, Respondent Peete and Respondent Loza are subject to
20 disciplinary action under section 8622 in that, with respect to the Oberholtzer Property,
21 Respondents failed to correct the items described in the December 30, 2013, Report of Findings,
22 and failed to bring the Oberholtzer Property into compliance with the December 30, 2013, Report
23 of Findings. The circumstances are described in additional detail in paragraphs 76, 78, 85 and 90,
24 above, which are hereby incorporated by reference as though set forth fully.

25 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

26 **(Failure to Properly Inspect and Report Findings from Inspection)**

27 96. Respondent Firestone, Respondent Peete and Respondent Loza are subject to
28 disciplinary action under section 8516, subdivisions (b)(5), (b)(6), (b)(7), and (b)(10), as well as

1 California Code of Regulations, title 16, section 1990, subdivisions (a)(3), (a)(4), (b)(1), (b)(2),
2 (b)(3), (b)(4), (b)(5), and (e), in that, with respect to the Oberholtzer Property, Respondents failed
3 to identify and report evidence of termites, moisture conditions, earth to wood contact,
4 inaccessible portions of the substructure, faulty grade conditions, decay fungi damage, and termite
5 damage, on the August 24, 2013, "complete," "separated" inspection report. The circumstances
6 are described in additional detail in paragraphs 70, 71, 73, 75, 76, 78, 79, 85, and 90, above, which
7 are hereby incorporated by reference as though set forth fully.

8 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

9 **(Failure to Properly Inspect and Report Findings from Inspection)**

10 97. Respondent Firestone and Respondent Peete are subject to disciplinary action under
11 section 8516, subdivisions (b)(6), (b)(7), and (b)(10), as well as California Code of Regulations,
12 title 16, section 1990, subdivisions (a)(4), (b)(1), (b)(2), (b)(3), (b)(4), (b)(5), (e), and (f), in that,
13 with respect to the Oberholtzer Property, Respondents failed to issue a proper report and make
14 proper findings on the February 15, 2014, "complete," "separated" inspection report. The
15 circumstances are described in additional detail in paragraphs 84, 87, and 88, above, which are
16 hereby incorporated by reference as though set forth fully.

17 **DISCIPLINARY CONSIDERATIONS**

18 98. To determine the degree of discipline, if any, to be imposed on Respondents,
19 Complainant alleges the following:

20 **Prior Citation Against Respondent Peete**

21 a. On or about February 28, 2012, in Citation No. CF 12-103, the Board issued a fine in
22 the amount of \$600.00 to Respondent Peete for violating section 8613 by failing to notify the
23 registrar in writing of a change in a principal office location and section 8652 for failing to make
24 records available for the Board to inspect during business hours. That citation is now final, has
25 been paid, and is incorporated by reference as if fully set forth.

26 **Prior Citations Against Respondent Loza**

27 b. On or about October 23, 2013, in Citation No. CF 14-43, the Board issued a fine in
28 the amount of \$100.00 to Respondent Loza for violating section 8593 and California Code of

1 Regulations, title 16, section 1950, by certifying under the penalty of perjury that he had
2 successfully completed the required amount of continuing education when he had not met the
3 Board's hourly requirements. That citation is now final, has been paid, and is incorporated by
4 reference as if fully set forth.

5 c. On or about April 29, 2014, in File No. 13142108, the Los Angeles County
6 Agricultural Commissioner issued a fine in the amount of \$200 to Ocean View Termite and Pest,
7 of which Respondent Loza is the Qualifying Manager, for violating section 8538(a)(3) by failing to
8 include the required health cautionary paragraph on the company's service tickets and section
9 8505.17(c) by failing to submit the Monthly Summary Pesticide Use Reports to the Agricultural
10 Commissioner for the year 2013. The fine is now final.

11 **OTHER MATTERS**

12 99. Notice is hereby given that section 8620 provides, in pertinent part, that a respondent
13 may request that a civil penalty of not more than \$5,000 be assessed in lieu of an actual suspension
14 of 1 to 19 days, or not more than \$10,000 for an actual suspension of 20 to 45 days. Such request
15 must be made at the time of the hearing and must be noted in the proposed decision. The
16 proposed decision shall not provide that a civil penalty shall be imposed in lieu of a suspension.

17 100. Pursuant section 8624, the causes for discipline established as to Company
18 Registration Certificate Number PR 6588, issued to Firestone Termite, Inc., with Francisco Lopez
19 as the President, likewise constitute cause for discipline against Operator's License Number OPR
20 11021, issued to Mance Larale Peete, who served as the Qualifying Manager of Firestone Termite,
21 Inc., during the acts that occurred surrounding the Kajikyan Property, the Perez Property, and the
22 Oberholtzer Property, regardless of whether Mance Larale Peete had knowledge of or participated
23 in the acts or omissions which constitute cause for discipline against Firestone Termite, Inc.

24 101. Pursuant to Code section 8654, if discipline is imposed on Company Registration
25 Certificate Number PR 6588, issued to Firestone Termite, Inc., with Francisco Lopez as the
26 President, then Mance Larale Peete, who served as the Qualifying Manager of Firestone Termite,
27 Inc., during the acts that occurred surrounding the Kajikyan Property, the Perez Property and the
28 Oberholtzer Property, shall be prohibited from serving as an officer, director, associate, partner,

1 qualifying manager, or responsible managing employee for any registered company during the time
2 the discipline is imposed, and any registered company which employs, elects, or associates him,
3 shall be subject to disciplinary action.

4 **PRAYER**

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
6 and that following the hearing, the Structural Pest Control Board issue a decision:

7 1. Revoking or suspending Company Registration Certificate Number PR 6588, issued to
8 Firestone Termite, Inc.; Francisco Lopez;

9 2. Revoking or suspending Operator's License Number OPR 11496, issued to Freddy
10 Loza;

11 3. Revoking or suspending Operator's License Number OPR 11021, issued to Mance
12 Larale Peete;

13 4. Prohibiting Francisco Lopez from serving as an officer, director, associate, partner,
14 qualifying manager or responsible managing employee of any registered company during the
15 period that discipline is imposed on Company Registration Certificate number PR 6588, issued to
16 Firestone Termite, Inc.; Francisco Lopez;

17 5. Prohibiting Mance Larale Peete from serving as an officer, director, associate, partner,
18 qualifying manager or responsible managing employee of any registered company during the
19 period that discipline is imposed on Company Registration Certificate number PR 6588, issued to
20 Firestone Termite, Inc.; Francisco Lopez;

21 6. Prohibiting Freddy Loza from serving as an officer, director, associate, partner,
22 qualifying manager or responsible managing employee of any registered company during the
23 period that discipline is imposed on Company Registration Certificate number PR 6588, issued to
24 Firestone Termite, Inc.; Francisco Lopez;

25 7. Ordering Firestone Termite, Inc., Francisco Lopez, Freddy Loza, and Mance Larale
26 Peete to pay the Structural Pest Control Board the reasonable costs of the investigation and
27 enforcement of this case, pursuant to Business and Professions Code section 125.3;

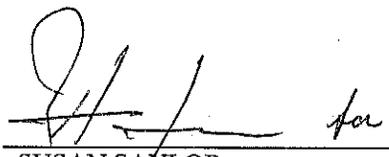
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8. Ordering Francisco Lopez, Freddy Loza, and Mance Larale Peete to pay restitution of all damages suffered as a result of Firestone Termite, Inc., Francisco Lopez, Freddy Loza, and Mance Larale Peete's conduct on the Kajikyan Property, the Perez Property and the Oberholtzer Property as a condition of probation in the event probation is ordered; and,

9. Taking such other and further action as deemed necessary and proper.

DATED: 7/30/14

 for

SUSAN SAYLOR
Registrar/Executive Officer
Structural Pest Control Board
Department of Consumer Affairs
State of California
Complainant

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