FILED

Date 6/7/12 William H. Douglas

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

In the Matter of the Accusation Against:

PLATINUM EXTERMINATORS
LEAH ANN TRIBBLE, QM
847 South Orange Avenue
West Covina, California 91790

Company Registration License No. PR 5127, Br. 2 and 3
Operator License No. OPR 7711, Br. 2 and 3

-and-

27614 Potomac Drive
Sun City, Ca. 92586

JOSE ANTONIO RUIZ
847 South Orange Avenue
West Covina, California 91790

Operator License No. OPR 12259, Br. 3
Field Representative License No. FR 45946, Br. 2

Case No. 2012-58

ACCUSATION

ALLSTAR FUMIGATION, INC.
CHRISTIAN PONCE, PRESIDENT
JAIME CHAVEZ, QM
3756 Dalton Avenue
Los Angeles, Ca. 90018

Company Registration No. PR 5704, Br. 1
Operator License No. OPR 11254, Br. 1

COUNTRY WIDE FUMIGATION
JAIME CHAVEZ, QM
P.O. Box 18947
Los Angeles, Ca. 90018

Company Registration License No. PR 6285, Br. 1
Operator License No. OPR 11254, Br. 1

Respondents.

William H. Douglas ("Complainant") alleges:

PARTIES

1. Complainant brings this Accusation solely in his official capacity as the Interim Executive Officer/Registrar of the Structural Pest Control Board ("Board"), Department of Pesticide Regulation.

Company Registration Certificate No. PR 5127

2. On or about September 1, 2006, the Board issued Company Registration Certificate Number PR 5127 ("registration") to Platinum Exterminators ("Respondent or Respondents") in Branch 3, with Jose Antonio Ruiz as Owner ("Respondent Ruiz or Respondents") and Leah Ann Tribble ("Respondent Tribble or Respondents") as Qualifying Manager. On or about March 18, 2008, Company Registration Certificate Number PR 5127 was upgraded to include Branches 2 and 3 and reflected Respondent Tribble as Branch 2 Qualifying Manager. On or about April 2, 2009, Company Registration Certificate Number PR 5127 reflected the disassociation of Respondent Tribble as Branch 2 and 3 Qualifying Manager. On or about July 2, 2009, Company

Registration Certificate Number PR 5127 reflected Respondent Tribble as Qualifying Manager. On or about August 11, 2011, Company Registration Certificate Number PR 5127 reflected the disassociation of Respondent Tribble as Qualifying Manager. On or about August 23, 2011, Company Registration Certificate Number PR 5127 reflected Jose Antonio Ruiz as Branch 3 Qualifying Manager. On or about September 20, 2011, Company Registration Certificate Number PR 5127 was downgraded to include Branch 3 only.

Operator's License No. OPR 7711

3. On or about July 16, 1987, the Board issued Operator's License Number OPR 7711 ("license") in Branch 2 to Respondent Tribble. On or about April 29, 1991, Operator's License Number OPR 7711 was upgraded to include Branches 2 and 3. On or about September 1, 2006, Operator's License Number OPR 7711 became the Qualifying Manager of Platinum Exterminators. On or about March 18, 2008, Operator's License Number OPR 7711 became the Brach 2 Qualifying Manager of Platinum Exterminators. On or about April 2, 2009, Operator's License Number OPR 7711 disassociated as the Branch 2 and 3 Qualifying Manager of Platinum Exterminators. On or about July 2, 2009, Operator's License Number OPR 7711 became the Branch 2 and 3 Qualifying Manager of Platinum Exterminators. On or about August 11, 2011, Operator's License Number OPR 7711 disassociated as Qualifying Manager of Platinum Exterminators. The Operator's license will expire on June 30, 2014, unless renewed.

Operator's License No. OPR 12259

4. On or about August 23, 2011, the Board issued Operator's License Number OPR 12259 ("license") in Branch 3 to Respondent Ruiz as Owner and Branch 3 Qualifying Manager of Platinum Exterminators. The Operator's license will expire on June 30, 2014, unless renewed.

Field Representative's License No. FR 45946, Br. 2

5. On or about September 14, 2010, the Board issued Field Representative's License Number FR 45946 ("license") in Branch 2 to Respondent Ruiz. The license will expire on June 30, 2013, unless renewed.

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Company Registration Certificate No. PR 5704

6. On or about October 20, 2008, the Board issued Company Registration Certificate Number PR 5704 ("registration") to Allstar Fumigation, Inc. ("Respondent Allstar or Respondents") in Branch 1, with Florencio Ponce as President, Christian Ponce as Vice President, and Abdul-Aleem Rasheed as Qualifying Manager. On or about May 18, 2009, Company Registration Certificate Number PR 5704 reflected the disassociation of Abdul-Aleem Rasheed as Branch 1 Qualifying Manager. On or about February 8, 2010, Company Registration Certificate Number PR 5704 reflected Raymundo Esteban Gill as Qualifying Manager. On or about June 14, 2010, Company Registration Certificate Number PR 5704 reflected the disassociation of Raymundo Esteban Gill as Qualifying Manager. On or about July 9, 2010, Company Registration Certificate Number PR 5704 reflected Susana Haro as Qualifying Manager. On or about July 12, 2010, Company Registration Certificate Number PR 5704 reflected the disassociation of Susana Haro as Qualifying Manager. On or about August 12, 2010, Company Registration Certificate Number PR 5704 reflected Jaime Chavez ("Respondent Chavez or Respondents") as Qualifying Manager. On or about February 10, 2011, Company Registration Certificate Number PR 5704 reflected the disassociation of Jaime Chavez as Qualifying Manager.

Operator's License No. OPR 11254

7. On or about January 27, 2006, the Board issued Operator's License Number OPR 11254 ("license") in Branch 1 to Respondent Chavez . On or about August 12, 2010, Operator's License Number OPR 11254 became the Qualifying Manager of Respondent Allstar. On or about February 10, 2011, Operator's License Number OPR 11254 disassociated as the Qualifying Manager of Respondent Allstar. The Operator's license will expire on June 30, 2014, unless renewed.

Company Registration Certificate No. PR 6285

8. On or about May 5, 2011, the Board issued Company Registration Certificate Number PR 6285 ("registration") to Country Wide Fumigation ("Respondent Country Wide or

Respondents") in Branch 1, with Ambar A. Byrami as owner, and Respondent Chavez as Qualifying Manager.

JURISDICTION

9. Code section 8620 provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the holder, while a licensee or applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil penalty.

10. Code section 8624 states:

> If the board suspends or revokes an operator's license and one or more branch offices are registered under the name of the operator, the suspension or revocation may be applied to each branch office.
>
> If the operator is the qualifying manager, a partner, responsible officer, or owner of a registered structural pest control company, the suspension or revocation may be applied to the company registration.
>
> The performance by any partnership, corporation, firm, association, or registered company of any act or omission constituting a cause for disciplinary action, likewise constitutes a cause for disciplinary action against any licensee who, at the time the act or omission occurred, was the qualifying manager, a partner, responsible officer, or owner of the partnership, corporation, firm, association, or registered company whether or not he or she had knowledge of, or participated in, the prohibited act or omission.

11. Code section 8625 states:

> The lapsing or suspension of a license or company registration by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license or company registration shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such licensee or company, or to render a decision suspending or revoking such license or registration.

12. Code section 8622 states:

> When a complaint is accepted for investigation of a registered company, the board, through an authorized representative, may inspect any or all properties on which a report has been issued pursuant to Section 8516 or a notice of completion has been issued pursuant to Section 8518 by the registered company to determine compliance with the provisions of this chapter and the rules and regulations issued thereunder. If the board determines the property or properties are not in compliance, a notice shall be sent to the registered company so stating. The registered company shall have 30 days from the receipt of the notice to bring such property into compliance, and it shall submit a new original report or completion notice or both and an inspection fee of not more than one hundred

twenty-five dollars ($125) for each property inspected. If a subsequent reinspection is necessary, pursuant to the board's review of the new original report or notice or both, a commensurate reinspection fee shall also be charged. If the board's authorized representative makes no determination or determines the property is in compliance, no inspection fee shall be charged.

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

STATUTORY PROVISIONS

13. Code section 8516 states, in pertinent part:

(b) No registered company or licensee shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the absence or presence of wood destroying pests or organisms until an inspection has been made by a licensed Branch 3 field representative or operator. The address of each property inspected or upon which work is completed shall be reported on a form prescribed by the board and shall be filed with the board no later than 10 business days after the commencement of an inspection or upon completed work.

Every property inspected pursuant to subdivision (b) of Section 8516.1, or Section 8518, or subdivision (b) of this section 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 inspected or work completed pursuant to Section 8516.1, Section 8518, or this section are grounds for disciplinary action and shall subject the registered company to a fine of not more than two thousand five hundred dollars ($2,500).

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

Reports 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 inspection reports or copies thereof shall be submitted to the board upon request within two business days. The following shall be set forth in the report:

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

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

(9) Indication or description of any areas that are inaccessible or not inspected with recommendation for further inspection if practicable. If, after the report has been made in compliance with this section, authority is given later to open inaccessible areas, a supplemental report on conditions in these areas shall be made.

(10) Recommendations for corrective measures.

14. Code section 8514 states, in pertinent part, that no registered company shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the control of household pests, or wood destroying pests or organisms until an inspection has been made.

15. Code section 8519 states, in pertinent part:

Certification as used in this section means a written statement by the registered company attesting to the statement contained therein relating to the absence or presence of wood-destroying pests or organisms and, listing such recommendations, if any, which appear on an inspection report prepared pursuant to Section 8516, and which relate to (1) infestation or infection of wood-destroying pests or organisms found, or (2) repair of structurally weakened members caused by such infestation or infection, and which recommendations have not been completed at the time of certification.

Any registered company which makes an inspection report pursuant to Section 8516, shall, if requested by the person ordering the inspection report, prepare and deliver to that person or his or her designated agent, a certification, to provide:

(c) When the inspection report prepared pursuant to Section 8516 discloses infestation or infection and the notice of work completed prepared pursuant to Section 8518 indicates that the registered company has not completed all recommendations to remove that infestation or infection or to repair damage caused by it: "This is to certify that the property described herein is now free of evidence of active infestation or infection in the visible and accessible areas except as follows: (describing infestations, infections, damage or evidence thereof, excepted)."

This certificate shall be accompanied by a copy of the inspection report prepared pursuant to Section 8516, and by a copy of the notice of work completed prepared pursuant to Section 8518, if any notice has been prepared at the time of the certification, or the

certification may be endorsed on and made a part of that inspection report or notice of work completed.

16. Code section 8525 states:

The board, subject to the approval of the director, may, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, adopt, amend, repeal, and enforce reasonably necessary rules and regulations relating to the practice of pest control and its various branches as established by Section 8560 and the administration of this chapter.

17. Code section 8550 subpart (a) states:

It is unlawful for any individual to engage or offer to engage in the business or practice of structural pest control, as defined in Section 8505, unless he or she is licensed under this chapter.

18. Code section 8571 states:

If the licensed operator who is designated as the qualifying manager for a registered company ceases for any reason whatsoever to be connected with the company, the company shall notify the registrar in writing within 10 days from such cessation. If the notice is given the registration shall remain in force for a reasonable length of time, to be determined by rules of the board, during which period the company must submit to the registrar in writing the name of another qualified, or to be qualified, qualifying manager to replace the qualifying manager who has ceased to be connected with it, and who shall qualify as such within the time allowed by rules and regulations of the board.

If the company fails to notify the registrar within the 10-day period, or fails to replace with a qualifying manager within the period fixed by the regulations of the board, at the end of the period the registration shall be ipso facto suspended. The registration shall be reinstated upon the filing of an affidavit, executed by a representative of the company, and filed with the registrar, to the effect that the qualifying manager who ceased to be connected with the company has been replaced by another operator who is authorized by this chapter to act in such capacity, and that such operator has not had his or her license suspended or revoked or that he or she has not been connected with a company which has had its registration suspended or revoked.

19. Code section 8590 states:

Except as otherwise provided herein, all operator's and field representative's licenses shall expire at 12 midnight on June 30 of every third year and all applicator's licenses shall expire at 12 midnight three years from the date of issue.

An individual licensed in more than one category may request that each license expire on the same date. The date requested shall be the date of the earliest expiration.

Every operator and every field representative shall pay a fee for the renewal of his or her license.

The board shall on or before the first day of June of each year mail to each operator and field representative whose license will expire in that year, addressed to him or her at his or her last known address, a notice that his or her renewal fee is due and payable and that, if not paid by June 30, a penalty will be added thereto.

In no case shall the penalty be waived.

Upon the receipt of the fee the board shall cause the renewal certificate to be issued.

20. Code section 8591 states:

If delinquency in the payment of the fee for renewal of any license extends beyond three months, the license shall not be reinstated and the licensee shall be required to obtain a new license in accordance with the provisions of Article 4 (commencing with Section 8560).

21. Code section 8622 states:

When a complaint is accepted for investigation of a registered company, the board, through an authorized representative, may inspect any or all properties on which a report has been issued pursuant to Section 8516 or a notice of completion has been issued pursuant to Section 8518 by the registered company to determine compliance with the provisions of this chapter and the rules and regulations issued thereunder. If the board determines the property or properties are not in compliance, a notice shall be sent to the registered company so stating. The registered company shall have 30 days from the receipt of the notice to bring such property into compliance, and it shall submit a new original report or completion notice or both and an inspection fee of not more than one hundred twenty-five dollars ($125) for each property inspected. If a subsequent reinspection is necessary, pursuant to the board's review of the new original report or notice or both, a commensurate reinspection fee shall also be charged. If the board's authorized representative makes no determination or determines the property is in compliance, no inspection fee shall be charged.

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

22. Code section 8638 states:

Failure on the part of a registered company to complete any operation or construction repairs for the price stated in the contract for such operation or construction repairs or in any modification of such contract is a ground for disciplinary action.

23. Code section 8641 states:

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

24. Code section 8642 states:

The commission of any grossly negligent or fraudulent act by the licensee as a pest control operator, field representative, or applicator or by a registered company is a ground for disciplinary action.

REGULATORY PROVISIONS

25. California Code of Regulations, title 16, section 1916 states:

A registered company which notifies the board of the disassociation of its qualifying manager or branch supervisor within the ten day period prescribed by Section 8571 of the code, shall be granted a period of thirty (30) days in which to replace such person with another qualifying manager or branch supervisor. An additional thirty (30) day extension can be granted by the registrar for good cause.

26. California Code of Regulations, title 16, section 1920 subsection (d), states, in pertinent part:

Compliance with Orders of Abatement: When a citation is not contested or if the citation is appealed and the person cited does not prevail, failure to comply with the order of abatement or to pay the fine in the citation within the time allowed by a licensee may result in disciplinary action being taken by the Board against the person cited, or where the cited person is unlicensed in appropriate judicial relief being taken against the person cited.

27. California Code of Regulations, title 16, section 1990, states, in pertinent part:

(a) All reports shall be completed as prescribed by the board. Copies filed with the board shall be clear and legible. All reports must supply the information required by Section 8516 of the

Code and the information regarding the pesticide or pesticides used as set forth in Section 8538 of the Code, and shall contain or describe the following:

(3) Infestations, infections or evidence thereof.

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

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

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

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

(4) Earth-wood contacts.

28. California Code of Regulations, title 16, section 1991, states, in pertinent part:

(a) Recommendations for corrective measures for the conditions found shall be made as required by paragraph 10 of subdivision (b) of Section 8516 of the code and shall also conform with the provisions of Title 24 of the California Code of Regulations and any other applicable local building code, and shall accomplish the following:

(3) When evidence of moisture, infestations or infections exists as a result of faulty grade levels, earth fill planters or loose stucco, a recommendation shall be made to correct the condition. Any method of controlling infestations arising from these conditions is considered adequate if the infestation is controlled.

(4) Comply with the provisions of section 2516(c)(6.1) of Title 24 of the California Code of Regulations (Effective July 1992).

(5) Structural members which appear to be structurally weakened by wood-destroying pests to the point where they no longer serve their intended purpose shall be replaced or reinforced. Structural members which are structurally weakened by fungus to the point where they no longer serve their intended purpose shall be removed or, if feasible, may remain in place if another structural member is installed adjacent to it to perform the same function, if both members are dry (below 20% moisture content), and if the excessive moisture condition responsible for the fungus damage is corrected. Structural members which appear to have only surface fungus damage may be chemically treated and/or left as is if, in the opinion of the inspector, the structural member will continue to perform its originally intended function and if correcting the excessive moisture condition will stop the further expansion of the fungus.

(6) Comply with the provisions of section 2516(c)(6) of Title 24 of the California Code of Regulations.

(8) Exterminate all reported wood-destroying pests. Such extermination shall not be considered repair under section 8516(b)(12) of the code. If evidence indicates that wood-destroying pests extend into an inaccessible area(s), recommendation shall be made to either:

(A) enclose the structure for an all encompassing treatment utilizing materials listed in Section 8505.1 of the code, or

(B) use another all encompassing method of treatment which exterminates the infestation of the structure, or

(C) locally treat by any or all of the following:

1. exposing the infested area(s) for local treatment,
2. removing the infested wood,
3. using another method of treatment which exterminates the infestation. (If any recommendation is made for local treatment, the report must contain the following statement: "Local treatment is not intended to be an entire structure treatment method. If infestations of wood-destroying pests extend or exist beyond the area(s) of local treatment, they may not be exterminated.")

When a complete inspection is performed, a recommendation shall be made to remove or cover all accessible pellets and frass of wood-destroying pests.

When a limited inspection is performed, the inspection report shall state that the inspection is limited to the area(s) described and diagrammed. A recommendation shall be made to remove or cover all accessible pellets and frass of wood-destroying pests in the limited areas. The limited inspection report shall include a recommendation for further inspection of the entire structure and that all accessible evidence of wood-destroying pests be removed or covered.

(11) Correct any excessive moisture condition that is commonly controllable. When there is reasonable evidence to believe a fungus infection exists in a concealed wall or area, recommendations shall be made to open the wall or area.

29. Regulations, Title 16, section 1996.3, states:

(a) The address of each property inspected and/or upon which work was completed shall be reported on a form prescribed by the Board and designated as the WDO Inspection and Completion Activity Report Form (see Form No. 43M-52 Rev. 5/03) at the end of this section. This form shall be prepared by each registered company and shall comply with all of the requirements pursuant to Section 8516(b), and 8518.

(b) The form shall contain the following information for each property inspected and/or upon which work was completed.

(1) Company Name

(2) Company registration number

(3) Branch office registration number (when a branch office issues an inspection report or notice of work completed

(4) Date of Activity

(5) Address of property inspected or upon which work was completed, including zip code

(6) Activity Code

(7) License number of licensee performing the inspection

(c) Failure of a registered company to report and file with the Board the address of any property inspected or upon which work was completed pursuant to Section 8516(b) or 8518 are grounds for disciplinary action and subject to a fine of not more then two thousand five hundred dollars ($2,500).

COST RECOVERY/RESTITUTION

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

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

MORRIS PROPERTY

32. On or about March 3, 2009, at the request of Mark Morris ("Morris"), Respondent Platinum performed a wood destroying pests and organisms inspection ("WDO") and issued a complete separated WDO inspection report on the property located at 3056 Motor Avenue, in Los Angeles ("Morris property"). Respondent Ruiz performed the WDO inspection and prepared the inspection report containing five findings and recommendations. The Section I findings identified evidence of subterranean and drywood termites, and termite damaged wood members in the substructure; termite damaged wood members at the deck and evidence of drywood termites at the interior of the structure. The Section I recommendations stated to chemically treat the subterranean and drywood termites, to remove or cover the evidence of infestation and to replace the termite damage wood members. There were no Section II or Further Inspection findings or

recommendations. The inspection report failed to contain any property owner/party of interest information and failed to contain any information in the Other Tags Posted box.

33. On or about March 18, 2009, Respondent Platinum issued a Standard Notice of Work Completed and Not Completed ("completion notice") on the incident address. The completion notice certified that all recommendations made by Respondent Ruiz on his March 3, 2009 complete, separated inspection report had been completed. On or about December 9, 2009, at the request of Mr. Morris, Respondent Platinum performed a WDO inspection and issued a complete, separated inspection report on the Morris property. Respondent Ruiz performed the WDO inspection and prepared an inspection report containing a Section I finding of evidence of drywood termites at the interior of the structure. The Section I recommendation stated to chemically treat visible and accessible infestations and to remove or cover accessible pellets. The inspection report failed to contain any property owner/party of interest information.

34. On or about December 11, 2009, Respondent Platinum issued a completion notice on the Morris property. The completion notice certified that the recommendation made by Respondent Ruiz on his December 9, 2009 report had been completed. On or about November 26, 2010, at the request of Mr. Morris, Respondent Platinum performed a WDO inspection and issued an inspection report on the Morris property. Respondent Ruiz performed the WDO inspection and documented finding evidence of drywood termites on the interior of the structure. The Section I recommendation stated to fumigate the structure for drywood termites and to remove or cover the evidence of infestation. There were no Section II or Further inspection findings or recommendations. The inspection report failed to contain any property owner/party of interest information. On or about November 30, 2010, Respondent Platinum issued a completion notice on the Morris property. The completion notice certified that the recommendation made by Respondent Ruiz on his November 26, 2010 report had been completed. In fact, the fumigation on the Morris property had been completed by Respondent Allstar. Further, the completion notice failed to contain a proper certification statement.

35. On or about June 22, 2011, Mr. Morris filed a complaint with the Board, alleging that Respondent Allstar failed to exterminate the termites after Respondent Platinum hired it to

fumigate the Morris property. On or about October 10, 2011, Board inspector Steven R. Smith ("Smith") inspected the Morris property and found evidence of drywood termites on top of the kitchen cabinets falling from a ceiling beam, evidence of drywood termites in a kitchen cabinet, evidence of drywood termites in a ceiling beam inside of the kitchen utility closet, evidence of drywood termites on the kitchen doorsill, falling out the door, evidence of drywood termites in a bathroom cabinet, and evidence of drywood termite swarmers in an office window.

FIRST CAUSE FOR DISCIPLINE

(Failure to Complete Fumigation)

36. Respondent Platinum and Respondent Tribble are subject to discipline under Code section 8641, in that on or about November 2010, concerning the Morris property, Respondents failed to comply with Code section 8638 in that Respondents failed to complete the fumigation contracted to Allstar Fumigation, Inc. as further set forth in paragraphs 26-29 which are incorporated hereto as though fully set forth herein.

SECOND CAUSE FOR DISCIPLINE

(Failure to Name Property Owner on Inspection Report)

37. Respondents Platinum Exterminators and Tribble are subject to disciplinary action under Section 8516, subdivision (b) (3) in that Respondents' reports on the Morris property dated March 3, 2009, December 9, 2009, and November 26, 2010, failed to contain any property owner/party of interest information as further set forth in paragraphs 26-29 which are incorporated hereto as though fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Incorrect License Number on Inspection Report)

38. Respondents Platinum Exterminators and Tribble are subject to discipline under Section 8641, in that Respondents failed to comply with California Code of Regulations, title 16, section 1990 subsection (a)(1) in that Respondents failed to issue an inspection report that contained the correct license number of the person making the inspection. The November 26, 2010 inspection report contains the license number for Respondent Ruiz, i.e. FR 43098 which

was cancelled on June 30, 2010. Respondent Ruiz was issued license number FR 45946 on September 23, 2010.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Contain Proper Certification Statement)

39. Respondents Platinum Exterminators and Tribble are subject to discipline under Section 8641, in that Respondents failed to comply with Section 8519 subsection (b) of the Code in that Respondents inspection report dated November 30, 2010, fails to contain a proper certification statement as further set forth in paragraphs 26-29 which are incorporated hereto as though fully set forth herein.

FIFTH CAUSE FOR DISCIPLINE

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

40. Respondents Platinum Exterminators and Tribble are subject to disciplinary action under Section 8516, subdivision (b) and subdivision (a) of Section 1996.3 of title 16 of the California Code of Regulations, in that Respondents failed to file WDO[1] activities reports with the Board, within 10 business days after commencement of inspection or upon completed work. The results of a WDO Activity Search by the Board disclosed that Respondents failed to file with the Board their November 26, 2010 inspection report and November 30, 2010 completion notice. In addition, Respondents March 18, 2009 completion notice was filed with the Board as having been issued on March 4, 2009. Complainant hereby incorporates paragraphs 26-29 which are incorporated hereto as though fully set forth herein.

SIXTH CAUSE FOR DISCIPLINE

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

41. Respondent Ruiz is subject to disciplinary action under Code Section 8516, and Section 1996.1 subsection (c) of title 16 of the California Code of Regulations, in that Respondent Ruiz failed to include Other Tags Posted Information on the March 3, 2009 inspection report.

[1] The abbreviation "WDO" stands for the Wood Destroying Organism Inspection and Completion Activity Report Form (see Form No. 43M-52 Rev. 5/03).

Complainant hereby incorporates paragraphs 26-29 which are incorporated hereto as though fully set forth herein.

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Complete Work)

42. Respondents Allstar and Chavez are subject to disciplinary action under Code Section 8638, in that Respondents failed to complete the work on the Morris property in November 2010. Moreover, active drywood termites were found after the completion of the fumigation. Complainant hereby incorporates paragraphs 26-29 which are incorporated hereto as though fully set forth herein.

EIGHTH CAUSE FOR DISCIPLINE

(Failure to Notify Board of Change of Address and/or Change of Location of Principle Office)

43. Respondents Country Wide and Chavez are subject to disciplinary action under Code Section 8613, and Section 1911 of title 16 of the California Code of Regulations in that Respondents failed to notify the Board in writing of a change in the location of Country Wide's principal office within thirty (30) days of the change. Moreover, Respondent Chavez failed to notify the Board of a change in address within ten (10) days of the change. Complainant hereby incorporates paragraphs 26-29 which are incorporated hereto as though fully set forth herein.

NINTH CAUSE FOR DISCIPLINE

(Performing WDO Inspections With An Expired/Delinquent License)

44. Respondents Platinum,Tribble and Ruiz are subject to disciplinary action under Code Sections 8590 and 8591 in that Respondent Platinum performed WDO inspections on or about August 30, 2010 and September 1, 2010, with a license, FR 43098, that expired on or about June 30, 2010, and was cancelled on or about September 2, 2010.

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TENTH CAUSE FOR DISCIPLINE

(Performing WDO Inspections While Unlicensed)

45. Respondents Platinum,Tribble and Ruiz are subject to disciplinary action under Code Section 8550 subpart (a) in that Respondent Platinum performed WDO inspections on or about September 3, 7, 10, 14, and 16, 2010 with a license, FR 43098, that was cancelled on or about September 2, 2010.

ELEVENTH CAUSE FOR DISCIPLINE

(Filing WDO Activities With Incorrect Information)

46. Respondents Platinum Exterminators, Tribble, and Ruiz are subject to disciplinary action under Section 8516, subdivision (b) and subdivision (a) of Section 1996.3 of title 16 of the California Code of Regulations, in that Respondents filed approximately 170 WDO activities with the Board with the incorrect license number, FR 43098, of the licensee performing the WDO inspection.

TWELFTH CAUSE FOR DISCIPLINE

(Failure to File WDO Activities with the Board)

47. Respondents Platinum Exterminators, Tribble, and Ruiz are subject to disciplinary action under Section 8516, subdivision (b) and subdivision (a) of Section 1996.3 of title 16 of the California Code of Regulations, in that Respondents failed to file an inspection report dated November 26, 2010 with the Board. Further, Respondents failed to file approximately 900 WDO activities performed between September 12, 2006 and April 5, 2007.

THIRTEENTH CAUSE FOR DISCIPLINE

(Failure to Notify Board in Writing Within Ten Days of Disassociation of Qualifying Manager)

48. Respondents Platinum Exterminators, Tribble, and Ruiz are subject to disciplinary action under Section 8571 and Section 1916 of title 16 of the California Code of Regulations, in that Respondents failed to notify the Board in writing, within ten days, of the disassociation of its Qualifying Manager on April 2, 2009.

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FOURTEENTH CAUSE FOR DISCIPLINE

(Failure to Notify Board in Writing Within

Ten Days of Disassociation of Qualifying Manager)

49. Respondents Platinum Exterminators and Ruiz are subject to disciplinary action under Section 8506.2 and Sections 1916 and 1996.3 subpart (b) of title 16 of the California Code of Regulations, in that Respondents engaged in the practice of structural pest control without a qualifying manager in that Respondents filed five WDO activities with the Board for activities between August 11, 2011, and August 22, 2011 when Respondent Platinum had no qualifying manager.

FIFTEENTH CAUSE FOR DISCIPLINE

(Grossly Negligent or Fraudulent Act(s))

50. Respondents Platinum Exterminators and Ruiz are subject to disciplinary action under Section 8642, in that Respondents changed the license number on WDO inspection reports dated March 18, 2009, July 6, 2009, August 30, 2010, September 1, 2010, and November 26, 2010 from his previous Field Representative's license, FR 43098, to his current Operator's license, OPR 12259. Respondent Ruiz Operator's license, OPR 12259, was not even issued until August 23, 2011. In addition, the inspection report the Board received for the property located at 16509 Knollwood Drive, Granada Hills, Ca. is dated August 25, 2011, yet the report was filed with the Board as having been performed on September 10, 2010.

DISCIPLINARY CONSIDERATIONS

Company Registration No. PR 5127

51. On or about January 31, 2008, a fine in the amount of $250 was levied against the registration by the Los Angeles County Agricultural Commissioner for violating California Code of Regulations, title 16, section 6724.

52. On or about September 10, 2008, a fine in the amount of $1800 was levied against the registration by the Board for violating section 8640 of the Business and Professions Code.

Operator License No. OPR 7711

53. On or about September 10, 2008, a fine in the amount of $1800 was levied against the Operator license by the Board for violating section 8640 of the Business and Professions Code.

Company Registration No. PR 5704

54. On or about May 3, 2010, a fine in the amount of $2500 was levied against the registration by the Board for violating section 8652 of the Business and Professions Code. The remaining balance due is $1500.00.

55. On or about September 12, 2010, a fine in the amount of $500 was levied against the registration by the Los Angeles County Agricultural Commissioner for violating section 1970.4 of the California Code of Regulations and section 8505.10 of the Business and Professions Code.

56. On or about May 23, 2011, a fine in the amount of $1200 was levied against the registration by the Los Angeles County Agricultural Commissioner for violating section 8698.1 of the Business and Professions Code and section 15204 of the Food and Agriculture Code. The fine has not been paid.

57. On or about May 23, 2011, a fine in the amount of $400 was levied against the registration by the Los Angeles County Agricultural Commissioner for violating section 15204 of the Food and Agriculture Code. The fine has not been paid.

58. On or about May 23, 2011, a fine in the amount of $400 was levied against the registration by the Los Angeles County Agricultural Commissioner for violating section 15204 of the Food and Agriculture Code. The fine has not been paid.

59. On or about May 23, 2011, a fine in the amount of $1900 was levied against the registration by the Los Angeles County Agricultural Commissioner for violating section 6600(b) of the California Code of Regulations and section 15204 of the Food and Agriculture Code. The fine has not been paid.

Operator License No. OPR 11254

60. On or about April 17, 2009, a fine in the amount of $400 was levied against the Operator license by the Los Angeles County Agricultural Commissioner for violating section 6600(b) of the California Code of Regulations.

61. On or about May 23, 2010, a fine in the amount of $400 was levied against the Operator license by the Los Angeles County Agricultural Commissioner for violating section 15204 of the Food and Agriculture Code. The fine has not been paid.

62. On or about November 10, 2011, a fine in the amount of $400 was levied against the Operator license by the Los Angeles County Agricultural Commissioner for violating section 15204 of the Food and Agriculture Code.

63. On or about November 10, 2011, a fine in the amount of $250 was levied against the Operator license by the Los Angeles County Agricultural Commissioner for violating section 6780 of the California Code of Regulations.

64. On or about November 10, 2011, a fine in the amount of $250 was levied against the Operator license by the Los Angeles County Agricultural Commissioner for violating section 6780 of the California Code of Regulations.

65. On or about November 21, 2011, a fine in the amount of $300 was levied against the Operator license by the Los Angeles County Agricultural Commissioner for violating section 6780 of the California Code of Regulations and section 8505.10 of the Business and Professions Code.

Company Registration No. PR 6285

66. On or about November 10, 2011, a fine in the amount of $400 was levied against the registration by the Los Angeles County Agricultural Commissioner for violating section 15204 of the Food and Agriculture Code.

67. On or about November 10, 2011, a fine in the amount of $250 was levied against the registration by the Los Angeles County Agricultural Commissioner for violating section 6780 of the California Code of Regulations.

68. On or about November 10, 2011, a fine in the amount of $250 was levied against the registration by the Los Angeles County Agricultural Commissioner for violating section 6780 of the California Code of Regulations.

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Field Representative License No. FR 40682

69. On or about May 3, 2010, a fine in the amount of $2500 was levied against the Field Representative license by the Board for violating section 8692 of the Business and Professions Code. The remaining balance due is $1500.00.

70. On or about August 12, 2010, a fine in the amount of $500 was levied against the Field Representative license by the Los Angeles County Agricultural Commissioner for violating section 1970.4 of the California Code of Regulations and section 8505.10 of the Business and Professions Code.

71. On or about August 15, 2011, a fine in the amount of $250 was levied against the Field Representative license by the Los Angeles County Agricultural Commissioner for violating section 6600 of the California Code of Regulations. The fine has not been paid.

72. On or about December 7, 2011 a fine in the amount of $250 was levied against the Field Representative license by the Los Angeles County Agricultural Commissioner for violating section 6600 of the California Code of Regulations. The fine has not been paid.

OTHER MATTERS

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

74. Pursuant to Code section 8624, the causes for discipline established as to Company Registration Certificate Number PR 5127, issued to Platinum Exterminators, likewise constitute cause for discipline against Operator's License Number OPR 7711, issued to Leah Ann Tribble, who serves as the Qualifying Manager of Platinum Exterminators, regardless of whether Leah Ann Tribble had knowledge of or participated in the acts or omissions which constitute cause for discipline against Platinum Exterminators.

75. Pursuant to Code section 8654, if discipline is imposed on Company Registration Certificate Number PR 5127, issued to Platinum Exterminators, then Leah Ann Tribble, who serves as the Qualifying Manager of Platinum Exterminators, shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee for any registered company during the time the discipline is imposed, and any registered company which employs, elects, or associates her, shall be subject to disciplinary action.

76. Pursuant to Code section 8624, the causes for discipline established as to Company Registration Certificate Number PR 5704, issued to Allstar Fumigation, Inc., likewise constitute cause for discipline against Operator's License Number OPR 11254, issued to Jaime Chavez, who serves as the Qualifying Manager of Allstar Fumigation, Inc., regardless of whether Jaime Chavez had knowledge of or participated in the acts or omissions which constitute cause for discipline against Allstar Fumigation, Inc.

77. Pursuant to Code section 8654, if discipline is imposed on Company Registration Certificate Number PR 5704, issued to Allstar Fumigation, Inc., then Jaime Chavez, who serves as the Qualifying Manager of Allstar Fumigation, Inc., shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee for any registered company during the time the discipline is imposed, and any registered company which employs, elects, or associates him, shall be subject to disciplinary action.

78. Pursuant to Code section 8624, the causes for discipline established as to Company Registration Certificate Number PR 6285, issued to Country Wide Fumigation, likewise constitute cause for discipline against Operator's License Number OPR 11254, issued to Jaime Chavez, who serves as the Qualifying Manager of Country Wide Fumigation, regardless of whether Jaime Chavez had knowledge of or participated in the acts or omissions which constitute cause for discipline against Country Wide Fumigation.

79. Pursuant to Code section 8654, if discipline is imposed on Company Registration Certificate Number PR 6285, issued to Country Wide Fumigation, then Jaime Chavez, who serves as the Qualifying Manager of Country Wide Fumigation, shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee

for any registered company during the time the discipline is imposed, and any registered company which employs, elects, or associates him, shall be subject to disciplinary action.

PRAYER

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

1. Revoking or suspending Company Registration Certificate Number PR 5127, issued to Platinum Exterminators;
2. Revoking or suspending Company Registration Certificate Number PR 5704, issued to Allstar Fumigation, Incorporated;
3. Revoking or suspending Company Registration Certificate Number PR 6285, issued to Country Wide Fumigation;
4. Revoking or suspending Operator's License Number OPR 7711, issued to Leah Ann Tribble;
5. Revoking or suspending any other license for which Leah Ann Tribble is furnishing the qualifying experience or appearance;
6. Revoking or suspending Operator's License Number OPR 12259, issued to Jose Antonio Ruiz;
7. Revoking or suspending any other license for which Jose Antonio Ruiz is furnishing the qualifying experience or appearance;
8. Revoking or suspending Field Representative License Number FR 45946, issued to Jose Antonio Ruiz;
9. Ordering restitution of all damages according to proof suffered by Mark Morris as a condition of probation in the event probation is ordered;
10. Prohibiting Leah Ann Tribble and/or Jose Antonio Ruiz from serving as an officer, director, associate, partner, qualifying manager or responsible managing employee of any registered company during the period that discipline is imposed on Company Registration Certificate Number PR 5127, issued to Platinum Exterminators;

11. Ordering Leah Ann Tribble, Platinum Exterminators and Jose Antonio Ruiz to pay the Structural Pest Control Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: 6/7/12

William H. Douglas
Interim Executive Officer/ Registrar
Structural Pest Control Board
Department of Pesticide Regulation
State of California
Complainant