

BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

PRUDENT TERMITE CONTROL, INC.,
OSCAR MAGANA, QUALIFYING
MANAGER, Br. 2 and 3
1 Butterfly
Irvine, CA 92604

Operator License No. OPR 12322

Respondent.

Case No. 2014-13

OAH No. 2013110174

DECISION AND ORDER

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

This Decision shall become effective on February 26, 2015.

It is so ORDERED January 27, 2015



FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 MANUEL ARAMBULA
Deputy Attorney General
4 State Bar No. 289718
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2098
7 Facsimile: (619) 645-2061
E-mail: Manuel.Arambula@doj.ca.gov
8 *Attorneys for Complainant*

9 **BEFORE THE**
STRUCTURAL PEST CONTROL BOARD
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2014-13
OAH No. 2013110174

14 **PRUDENT TERMITE CONTROL, INC.,**
OSCAR MAGANA, QUALIFYING
15 **MANAGER**
16 8843 Marshall Street
Rosemead, CA 91770

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

17 **Operator License No. OPR 12322,**
18 **Br. 2 and 3**

Respondent.

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20 In the interest of a prompt and speedy settlement of this matter, consistent with the public
21 interest and the responsibility of the Structural Pest Control Board of the Department of
22 Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and
23 Disciplinary Order which will be submitted to the Board for approval and adoption as the final
24 disposition of the Accusation solely with respect to Respondent Oscar Magana.
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1 PARTIES

2 1. Susan Saylor ("Complainant") is the Registrar/Executive Officer of the Structural
3 Pest Control Board. She brought this action solely in her official capacity and is represented in
4 this matter by Kamala D. Harris, Attorney General of the State of California, by Manuel
5 Arambula, Deputy Attorney General.

6 2. Prudent Termite Control, Inc., Oscar Magana, Qualifying Manager/Branch 2 and 3 is
7 representing himself in this proceeding and has chosen not to exercise his right to be represented
8 by counsel.

9 3. On or about February 22, 2012, the Structural Pest Control Board issued Operator
10 License No. OPR 12322 in Branch 2 and 3 to Respondent Oscar Magana ("Respondent"). The
11 license was in full force and effect at all times relevant to the charges brought in Accusation No.
12 2014-13 and will expire on June 30, 2017, unless renewed.

13 JURISDICTION

14 4. Accusation No. 2014-13 was filed before the Structural Pest Control Board ("Board")
15 , Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
16 and all other statutorily required documents were properly served on Respondent on September 9,
17 2013. Respondent timely filed his Notice of Defense contesting the Accusation.

18 5. A copy of Accusation No. 2014-13 is attached as Exhibit A and incorporated herein
19 by reference.

20 ADVISEMENT AND WAIVERS

21 6. Respondent has carefully read, and understand the charges and allegations in
22 Accusation No. 2014-13. Respondent has also carefully read, and understand the effects of this
23 Stipulated Settlement and Disciplinary Order.

24 7. Respondent is fully aware of his legal rights in this matter, including the right to a
25 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
26 his own expense; the right to confront and cross-examine the witnesses against him; the right to
27 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
28 the attendance of witnesses and the production of documents; the right to reconsideration and

1 court review of an adverse decision; and all other rights accorded by the California
2 Administrative Procedure Act and other applicable laws.

3 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
4 every right set forth above.

5 CULPABILITY

6 9. Respondent admits the truth of each and every charge and allegation in Accusation
7 No. 2014-13.

8 10. Respondent agrees that his Operator License is subject to discipline and agrees to be
9 bound by the Board's probationary terms as set forth in the Disciplinary Order below.

10 CONTINGENCY

11 11. This stipulation shall be subject to approval by the Structural Pest Control Board.
12 Respondent understands and agrees that counsel for Complainant and the staff of the Structural
13 Pest Control Board may communicate directly with the Board regarding this stipulation and
14 settlement, without notice to or participation by Respondent. By signing the stipulation,
15 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the
16 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
17 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
18 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
19 the parties, and the Board shall not be disqualified from further action by having considered this
20 matter.

21 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
22 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
23 signatures thereto, shall have the same force and effect as the originals.

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

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

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that Operator License No. OPR 12322 in Branch 2 and 3,
8 issued to Respondent Oscar Magana is revoked. However, the revocation is stayed and
9 Respondent is placed on probation for three (3) years on the following terms and conditions.

10 1. **ObeY All Laws.** Respondent shall obey all Federal, State, and Local laws along with
11 all laws relating to the practice of structural pest control.

12 2. **Quarterly Reports.** Respondent shall file quarterly reports with the Board during
13 the period of probation.

14 3. **Tolling of Probation.** Should Respondent leave California to reside outside this
15 state, Respondent must notify the Board in writing of the dates of departure and return. Periods
16 of residency or practice outside the state shall not apply to reduction of the probationary period.

17 4. **Notice to Employers.** Respondent shall notify all present and prospective employers
18 of the decision in case no. 2014-13 and the terms, conditions, and restriction imposed on
19 Respondent by said decision.

20 Within 30 days of the effective date of this decision, and within 15 days of undertaking new
21 employment, Respondent shall cause his employer to report to the Board in writing
22 acknowledging the employer has read the decision in case No. 2014-13.

23 5. **Notice to Employees.** Respondent shall, upon or before the effective date of this
24 decision, post or circulate a notice to all employees involved in structural pest control operations
25 which accurately recite the terms and conditions of probation. Respondent shall be responsible
26 for said notice being immediately available to said employees. "Employees" as used in this
27 provision includes all full-time, part-time, temporary and relief employees and independent
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1 contractors employed or hired at any time during probation.

2 6. **Posted Notice of Suspension.** Respondent structural pest control company shall
3 prominently post a suspension notice provided by the Board of the Board's order of suspension at
4 its principal office and each of its branch offices in a place conspicuous and readable to the
5 public. Said notice shall remain so posted during the entire period of actual suspension.

6 7. **Completion of Probation.** Upon successful completion of probation, Respondent's
7 license will be fully restored.

8 8. **Violation of Probation.** Should Respondent violate probation in any respect, the
9 Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and
10 carry out the disciplinary order which was stayed. If a petition to revoke probation is filed against
11 Respondent during probation, the Board shall have continuing jurisdiction until the matter is final,
12 and the period of probation shall be extended until the matter is final.

13 9. **Actual Suspension.** Operator License No. OPR 12322, issued to Respondent is
14 suspended for 10 consecutive days, beginning on the effective date of the decision.

15 10. **Random Inspections.** Respondent shall reimburse the Board for one random
16 inspection per quarter by Board specialists during the period of probation not to exceed \$125 per
17 inspection.

18 11. **Prohibited from Serving as Officer, Director, Associate, Partner or Qualifying**
19 **Manager.** Respondent is prohibited from serving as an officer, director, associate, partner,
20 qualifying manager or branch office manager for any registered company other than Prudent
21 Termite Control Inc. during the period that discipline is imposed on Operator License No. OPR
22 12322.

23 12. **No Interest In Any Registered Company.** Respondent shall not have any legal or
24 beneficial interest in any company Currently or hereinafter registered by the Board other than
25 Prudent Termite Control, Inc.

26 13. **Restoration Bond.** Pursuant to Business and Professions Code section 8697.3, as a
27 condition of reinstating the company registration, Respondent must file a restoration bond in the
28 sum of \$5,000 due no later than the last day of suspension. The bond required by this section shall

1 be in addition to the bond required by section 8697. Respondents shall post such bond with the
2 Registrar for a period of at least two (2) years and during such additional time as there may be
3 unsatisfied claims outstanding against the same.

4 14. **Cost Recovery.** Pursuant to section 125.3 of the California Business and Professions
5 Code, Respondents shall, jointly and severally, pay to the Board investigation and enforcement
6 costs in the amount of \$3,750.25, according to a payment schedule that has been approved by the
7 Board. Investigation and enforcement costs must be paid in full no later than three (3) months
8 prior to the end of probation. Probation shall not be terminated until all costs are paid in full.

9 ACCEPTANCE

10 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
11 stipulation and the effect it will have on my Operator's License. I enter into this Stipulated
12 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
13 bound by the Decision and Order of the Structural Pest Control Board.

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15 DATED: 11/6/14


16 OSCAR MAGANA,
17 QUALIFYING MANAGER/BRANCH 2 AND 3
18 PRUDENT TERMITE CONTROL, INC.,
19 RESPONDENT

20 ENDORSEMENT

21 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
22 submitted for consideration by the Structural Pest Control Board.
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1 Dated:

11/7/2014

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General



MANUEL ARAMBULA
Deputy Attorney General
Attorneys for Complainant

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