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

In the Matter of the Accusation Against: **ENVIRONMENT 1ST EXTERMINATING INC.; JAMES SEABERN, OWNER AND QUALIFYING MANAGER** **2340 South El Camino Real, Suite #13** **San Clemente, CA 92672** **Company Registration Certificate No. PR 2060** **and** **JAMES JUSTIN SEABERN** **2340 South El Camino Real, Suite #13** **San Clemente, CA 92672** **Operator's License No. OPR 9071** Respondents.	Case No. 2013-12 OAH No. 2012110884

DECISION AND ORDER

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

This Decision shall become effective on February 27, 2013.

It is so ORDERED January 28, 2013.

FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF PESTICIDE REGULATION

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In the Matter of the Accusation Against: **ENVIRONMENT 1ST EXTERMINATING INC.; JAMES SEABERN, OWNER AND QUALIFYING MANAGER** **2340 South El Camino Real, Suite #13** **San Clemente, CA 92672** **Company Registration Certificate No. PR 2060** **and** **JAMES JUSTIN SEABERN** **2340 South El Camino Real, Suite #13** **San Clemente, CA 92672** **Operator's License No. OPR 9071** Respondents.	Case No. 2013-12 OAH No. 2012110884 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Structural Pest Control Board of the Department of Pesticide Regulation, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of

the Accusation with respect to both Environment 1st Exterminating Inc. (Respondent Environment) and James Justin Seabern (Respondent Seabern).

PARTIES

1. Susan Saylor (Complainant) is the Interim Registrar/Executive Officer of the Structural Pest Control Board. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Adrian R. Contreras, Deputy Attorney General.

2. Respondent Environment is represented by Respondent Seabern, and both have chosen not to exercise the right to be represented by counsel.

3. On or about June 6, 1991, the Structural Pest Control Board issued Company Registration Certificate Number PR 2060 (the Company Registration Certificate) to Environment First Termite Control, with Alex A. Del Toro and James Justin Seabern as co-owners and John H. Burnard as qualifying manager. On or about February 28, 1992, John H. Burnard disassociated as qualifying manager. On or about January 24, 1993, Seabern became the qualifying manager. On or about September 3, 1996, the company registration name was changed to Respondent Environment. On or about September 17, 1998, Seabern became the owner of Respondent Environment.

4. On or about December 30, 1992, the Structural Pest Control Board issued Operator's License Number OPR 9071 (the Operator's License) to Respondent Seabern. The Operator's License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2013, unless renewed.

JURISDICTION

5. Accusation No. 2013-12 was filed before the Structural Pest Control Board (Board), Department of Pesticide Regulation, and is currently pending against Respondents Environment and Seabern. The Accusation and all other statutorily required documents were properly served on Respondents Environment and Seabern on September 6, 2012. On November 19, 2012, the Board issued an order vacating a default decision against Respondents Environment and Seabern, and further ordered that this matter proceed.

6. A copy of Accusation No. 2013-12 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

7. Respondents Environment and Seabern have carefully read, and understand the charges and allegations in Accusation No. 2013-12. Respondents Environment and Seabern have also carefully read, and understand the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

10. Respondents Environment and Seabern admit the truth of each and every charge and allegation in Accusation No. 2013-12.

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

CONTINGENCY

12. This stipulation shall be subject to approval by the Structural Pest Control Board. Respondents Environment and Seabern understand and agree that counsel for Complainant and the staff of the Structural Pest Control Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondents Environment and Seabern. By signing the stipulation, Respondents Environment and Seabern understand and

agree that they may not withdraw their agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Company Registration Certificate No. PR 2060 issued to Respondent Environment and Operator's License No. OPR 9071 issued to Respondent Seabern are revoked. However, the revocations are stayed and Respondents Environment and Seabern (collectively Respondents) are placed on probation for three (3) years on the following terms and conditions.

1. **Obey All Laws.** Respondents shall obey all federal, state and local laws along with all laws and rules relating to the practice of structural pest control.

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

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

4. **Notice to Employers.** Respondents shall notify all present and prospective employers of the decision in Case No. 2013-12 and the terms, conditions and restrictions imposed on Respondents by said decision.

Within 30 days of the effective date of this decision, and within 15 days of Respondents undertaking new employment, Respondents shall cause their employer to report to the Board in writing acknowledging the employer has read the decision in Case No. 2013-12.

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

6. **Completion of Probation.** Upon successful completion of probation, Respondents' license and certificate will be fully restored.

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

8. **Random Inspections.** Respondents shall reimburse the Board for one random inspection per quarter by Board specialists during the period of probation not to exceed $125 per inspection.

9. **Prohibited from Serving as Officer, Director, Associate, Partner or Qualifying Manager.** Respondents are prohibited from serving as an officer, director, associate, partner, qualifying manager or branch office manager of any registered company other than Environment

1st Exterminating during the period that discipline is imposed on Company Registration Certificate No. PR 2060 and Operator's License No. OPR 9071.

10. **No Interest In Any Registered Company.** Respondents shall not have any legal or beneficial interest in any company currently or hereinafter registered by the Board other than Environment 1st Exterminating.

11. **Cost Recovery.** Respondents shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of $2,655.24. Respondents shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months before the end of the probation term.

12. **Order of Abatement.** Within 30 days of the effective date of the decision, Respondents shall comply with the order of abatement in Citation No. CF 11-77. If Respondents fail to comply with the order of abatement within 30 days, the Company Registration Certificate and the Operator's License will be suspended until they comply with the order of abatement.

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ACCEPTANCE

I, James Justin Seabern, an individual Respondent and the owner of Respondent Environment, have carefully read the above Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on the Company Registration Certificate and my Operator's License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to bind myself and Respondent Environment to the Decision and Order of the Structural Pest Control Board.

DATED: 12-20-12

JAMES JUSTIN SEABERN
Individually, and as Owner of Environment 1st Exterminating, Inc.
Respondents

ENDORSEMENT

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

Dated: 12/21/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General

Adrian R. Contreras

ADRIAN R. CONTRERAS
Deputy Attorney General
Attorneys for Complainant

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