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

11 In the Matter of the Petition to Revoke Probation  
12 Against:

13 **FACTOR X TERMINATORS, INC., DAVID**  
14 **RECINOS, PRESIDENT/QUALIFYING**  
15 **MANAGER,**  
16 **19930 Lassen St,**  
17 **Chatsworth, CA 91311**

18 -and-

19 **145 S. Glenoaks Blvd, Ste. 442**  
20 **Burbank, Ca. 91502**

21 **Company Registration Certificate No. PR**  
22 **5228, Branch 2 and 3**

23 -and-

24 **DAVID RECINOS,**  
25 **19930 Lassen St,**  
26 **Chatsworth, CA 91311**

27 **Operator License No. OPR 10926, Branch 2**  
28 **and 3**

Respondent.

**FILED**

Date 12/28/16 By

*[Signature]*  
*[Signature]*

Case No. 2014-26

**PETITION TO REVOKE PROBATION**

Complainant alleges:

1 **PARTIES**

2 1. Susan Saylor (Complainant) brings this Petition to Revoke Probation solely in her  
3 official capacity as the Registrar/Executive Officer of the Structural Pest Control Board (Board),  
4 Department of Consumer Affairs.

5 **LICENSE HISTORIES**

6 **Factor X Terminators Inc.**

7 2. On or about January 31, 2007, the Board issued Company Registration Certificate  
8 Number PR 5228 in Branch 2 (general pest) and Branch 3 (termite) to Factor X Terminators, Inc.  
9 with David Recinos (hereinafter Respondent or Recinos) as President and Qualifying Manager.  
10 In and between April 23, 2012 and May 1, 2012; in and between September 21, 2012, and  
11 October 19, 2012; and in and between November 17, 2015 and January 7, 2016, Company  
12 Registration Certificate No. PR 5228 issued to Respondent was suspended due to Respondent's  
13 failure to maintain general liability insurance, as required by Business and Professions Code  
14 section 8692, and was subsequently reinstated. On or about July 7, 2016, Company Registration  
15 Certificate No. PR 5228 issued to Respondent was again suspended due to Respondent's failure  
16 to maintain general liability insurance as required by Business and Professions Code section 8692  
17 and has not been reinstated.

18 **David Recinos**

19 3. On or about June 22, 2004, the Board issued Operator License No. OPR 10926 in  
20 Branch 3 (termite) to David Recinos. On or about February 2, 2006, the Board upgraded  
21 Operator License No. OPR 10926 to include Branch 2 (general pest) to Recinos. Respondent's  
22 Operator license will expire on June 30, 2018, unless renewed.

23 4. In and between November 17, 2015 and January 7, 2016, Operator's License No.  
24 OPR 10926 issued to Respondent was suspended due to Respondent's failure to maintain general  
25 liability insurance, as required by Business and Professions Code section 8690, and was  
26 subsequently reinstated. On or about July 7, 2016, Company Registration Certificate No. PR  
27 5228 issued to Respondent was suspended due to Respondent's failure to maintain general  
28

1 liability insurance as required by Business and Professions Code section 8690 and has not been  
2 reinstated.

### 3 JURISDICTION

4 5. This Petition to Revoke Probation is brought before the Board under the authority of  
5 the following laws. All statutory section references are to the Business and Professions Code  
6 unless otherwise indicated. All regulatory section references are to Title 16 of the California  
7 Code of Regulations unless otherwise indicated.

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

12 7. Code section 8625 states:

13 The lapsing or suspension of a license or company registration by  
14 operation of law or by order or decision of the board or a court of law, or the  
15 voluntary surrender of a license or company registration shall not deprive the board of  
16 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.

17 8. Code section 8624 states, in pertinent part:

18 . . . .  
19 If the operator is the qualifying manager, a partner, responsible officer, or  
20 owner of a registered structural pest control company, the suspension or revocation  
may be applied to the company registration.

21 The performance by any partnership, corporation, firm, association, or  
22 registered company of any act or omission constituting a cause for disciplinary action,  
23 likewise constitutes a cause for disciplinary action against any licensee who, at the  
24 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.

25 9. Code section 8654 states, in pertinent part:

26 Any individual who has . . . had his or her license revoked, or whose  
27 license is under suspension, or who has failed to renew his or her license while it was  
28 under suspension, or who has been a member, officer, director, associate, qualifying  
manager, or responsible managing employee of any partnership, corporation, firm, or  
association . . . whose company registration has been revoked as a result of

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

5 10. California Code of Regulations, title 16, section 1937.12 states, in pertinent part:

6 (a) Whenever a proposed decision places a licensee or registered  
7 company on probation as a condition of staying a revocation or staying all or any  
8 portion of a suspension, the order granting such probation shall include at least the  
following conditions:

9 (1) That the licensee or registered company shall file quarterly reports  
with the board during the period of probation;

10 (2) Such other terms and conditions as may be appropriate in light of the  
11 number and nature of the violations proven.

12 (b) Nothing in this regulation shall deprive the board of its authority to  
13 modify or delete any term or condition of probation contained in a proposed decision  
submitted by an administrative law judge.

#### 14 STATUTORY PROVISIONS

15 11. Code section 8505.17 subdivision (c) states:

16 . . . .

17 (c) Registered structural pest control companies shall prepare and submit  
18 to the county agricultural commissioner a monthly report of all pesticides used in that  
19 county. The report shall be on a form approved by the Director of Pesticide  
20 Regulation and shall contain the name and registration number of each pesticide and  
21 the amount used. The report shall be submitted to the commissioner by the 10th day  
22 of the month following the month of application and a copy shall be maintained by  
23 the licensee for a period of three years after the report submission date. Each  
24 pesticide use report or combination of use reports representing a registered structural  
25 pest control company's total county pesticide use for the month shall require a  
26 pesticide use stamp or stamp number issued by the board in the denomination fixed  
by the board in accordance with Section 8674 as the pesticide use report filing fee.  
The board shall provide for the sale of these stamps and stamp numbers and for the  
refund of moneys paid for stamps which are returned to it unused. When a registered  
structural pest control company performs no pest control during a month in a county  
in which it has given notice pursuant to Section 15204 of the Food and Agricultural  
Code, the registered company shall submit a use report stating this fact to the  
commissioner. A pesticide use stamp or stamp number is not required on negative  
use reports.

27 ///

28 ///

12. 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 or Section 8518 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 8518 or this section 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).

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, field 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:

....

13. Code section 8518 states, in pertinent part:

(a) 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 business 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.

(b) 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 business days after completed work.

....

(d) 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)

1 of Section 8516 or Section 8518 is grounds for disciplinary action and shall subject  
2 the registered company to a fine of not more than two thousand five hundred dollars  
3 (\$2,500).

4 (e) The registered company shall retain for three years all original notices  
5 of work completed, work not completed, and activity forms.

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

11 14. Code section 8641 states:

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

17 15. Code section 8538 states, in relevant part:

18 (a) A registered structural pest control company shall provide the owner,  
19 or owner's agent, and tenant of the premises for which the work is to be done with  
20 clear written notice which contains the following statements and information using  
21 words with common everyday meaning:

22 (1) The pest to be controlled.

23 (2) The pesticide or pesticides proposed to be used and the active  
24 ingredient or ingredients.

25 (3) "State law require that you be given the following information:  
26 "CAUTION - PESTICIDES ARE TOXIC CHEMICALS. Structural Pest Control  
27 Companies are registered and regulated by the Structural Pest Control Board, and  
28 apply pesticides which are registered and approved for use by the Department of  
Pesticide Regulation and the United States Environmental Protection Agency.  
Registration is granted when the state finds that, based on existing scientific evidence,  
there are no appreciable risks if proper use conditions are followed or that the risk  
depends upon the degree of exposure, so exposure should be minimized."

"If within 24 hours following application you experience symptoms  
similar to common seasonal illness comparable to the flu, contact your physician or  
poison control company immediately."...

"For further information contact any of the following: Your Pest Control  
Company (telephone number); the Health Questions-the County Health Department  
(telephone number); for Application Information-the County Agricultural  
Commissioner (telephone number), and for Regulatory Information-the Structural  
Pest Control Board (telephone number and address)."

1       16. Code section 8642 states that "[t]he commission of any grossly negligent or  
2 fraudulent act by the licensee as a pest control operator, field representative, or applicator or by a  
3 registered company is a ground for disciplinary action."

4       17. Code section 8647 provides that: "Failure to comply in the sale or use of pesticides  
5 with the provisions of Chapter 2 (commencing with Section 12751 of Division 7 of the Food and  
6 Agricultural Code is a ground for disciplinary action."

7       18. Code section 8652 sets forth that:

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

12       19. Code section 8653 states in part:

13               The failure of any registered company or agent or officer thereof, to pay  
14 any moneys due for any materials or services rendered in connection with its  
15 operations as a registered pest control company, when it has the ability to pay or  
16 when it has received sufficient funds therefor as payment for the particular pest  
control work, project or operation for which the services or materials were rendered  
or purchased, is a ground for disciplinary action . . .

17       20. Code section 8691 provides that: "No registered company shall engage in any of the  
18 practices for which is required to be registered by this chapter, unless it maintains such insurance  
19 policy or bond as specified in this article."

20       21. Code section 8692 states, in pertinent part:

21               An "insurance policy" as used in this article means a contract of liability  
22 insurance issued by an insurance company authorized to transact business in this state  
23 . . . The insurance policy shall provide minimum limits of five hundred thousand  
24 dollars (\$500,000) for any one loss due to bodily injury, sickness or disease . . . and  
five hundred thousand dollars (\$500,000) minimum for any one loss due to injury or  
destruction of property, including the loss of use of the property . . .

25       22. Code section 8695 provides, in pertinent part: "The violation of any provision of this  
26 article . . . shall be grounds for the suspension or revocation by the board of the operator's license  
27 of the owner or qualifying manager or managers of the registered company and of the company  
28 registration."

23. Food and Agricultural Code section 15204, subdivision (a) states:

(a) Each licensed Branch 2 and Branch 3 structural pest control operator qualifying manager, as defined in Section 8506.2 of the Business and Professions Code, and Structural Pest Control Board registered company, as defined in Section 8506.1 of the Business and Professions Code, shall register with the commissioner prior to operating a structural pest control business in the county. The registration shall cover a calendar year. A fee may also be required at the time of registration. The fee shall be set by the county board of supervisors, except that in no case shall the fee exceed the actual cost of processing the registration or ten dollars (\$10), whichever is less. Payment of the fee shall be due by the date designated by the commissioner.

### **REGULATORY PROVISIONS**

24. California Code of Regulations, title 16, section 1937.12 states:

(a) Whenever a proposed decision places a licensee or registered company on probation as a condition of staying a revocation or staying all or any portion of a suspension, the order granting such probation shall include at least the following conditions:

(1) That the licensee or registered company shall file quarterly reports with the board during the period of probation;

(2) Such other terms and conditions as may be appropriate in light of the number and nature of the violations proven.

(b) Nothing in this regulation shall deprive the board of its authority to modify or delete any term or condition of probation contained in a proposed decision submitted by an administrative law judge.

25. California Code of Regulations, title 16, section 1991 states, in relevant 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:

....

(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

1 made to remove or cover all accessible pellets and frass of wood-destroying pests.

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

8 26. California Code of Regulations, title 16, section 1996.3 states:

9 (a) The address of each property inspected and/or upon which work was  
10 completed shall be reported on a form prescribed by the Board and designated as the  
11 WDO Inspection and Completion Activity Report Form (see Form No. 43M-52 Rev.  
12 5/09) at the end of this section. This form shall be prepared by each registered  
13 company and shall comply with all of the requirements pursuant to Section 8516(b),  
14 and 8518.

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

17 (1) Company Name

18 (2) Company registration number

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

21 (4) Date of Activity

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

24 (6) Activity Code

25 (7) License number of licensee performing the inspection

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

### 29 COST RECOVERY

30 27. Section 125.3 of the Code states, in pertinent part, that a Board may request the  
31 administrative law judge to direct a licensee found to have committed a violation or violations of  
32 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
33 enforcement of the case.

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1 **PRIOR DISCIPLINE**

2 28. In a disciplinary action entitled "*In the Matter of the First Amended Accusation*  
3 *Against Factor X Terminators Incl.; David Recinos*," Case No. 2014-26, the Board issued a  
4 decision on December 5, 2014, effective January 4, 2015, in which Respondent's Company  
5 Registration Certificate No. PR 5228 and Operator License No. 10926 were revoked. However,  
6 the revocation was stayed and Respondent was placed on probation for a period of three (3) years  
7 with certain terms and conditions. A copy of that Decision is attached as **Exhibit A**, and is  
8 incorporated herein by reference.

9 **PETITION TO REVOKE PROBATION**

10 29. At all times after the effective date of Respondent's probation, Condition 7 "Violation  
11 of Probation" stated:

12 Should Respondents violate probation in any respect, the Board, after  
13 giving Respondents notice and an opportunity to be heard, may revoke probation and  
14 carry out the disciplinary order which was stayed. If a petition to revoke probation is  
15 filed against either Respondent during probation, the Board shall have continuing  
16 jurisdiction until the matter is final, and the period of probation shall be extended  
17 until the matter is final.

18 30. Respondents' probation is subject to revocation, in that they violated probation as set  
19 forth below:

20 31. The Board received a Wood Destroying Pests or Organism (WDO) Report from  
21 Respondents dated January 26, 2015, for an inspection performed at 5120 Woodley Avenue,  
22 Encino, CA 91436. The Board's Specialist reviewed and found errors in this WDO Report. He  
23 emailed the corrections needed to the report and discussed them with Recinos.

24 32. On April 10, 2015, the Board's Specialist followed up with Recinos and verified that  
25 the following issues remained uncorrected: Pursuant to his disciplinary order, Respondent was to  
26 file all unreported WDO's within 30 days from the effective date of probation on January 4, 2015,  
27 but Respondent did not file the WDO activities until May 6, 2015. Recinos also did not correct  
28 the inspection report for the property located at 5120 Woodley Avenue, Encino, CA 91436 or  
issue a new report as requested. Further, Respondent did not send the Board a list of  
documentation for review pursuant to the disciplinary order's terms and conditions, by April 10,

1 2015. Recinos claimed on his licensee and company probation quarterly reports to have  
2 performed 31 inspections and eight completions, but his WDO submittals only showed nine  
3 submittals during the quarter at issue; 20 WDO activities were not submitted to the Board.

4 33. On February 16, 2016, the Board issued an insurance lapse report subsequent to the  
5 cancellation of Respondent's insurance on October 19, 2015. The Board received a certificate of  
6 insurance on January 7, 2016 evidencing a total of 80 days without insurance. On May 13, 2016,  
7 Recinos stated in a declaration that he "unintentionally" worked during the period of time when  
8 his insurance had lapsed.

9 34. On or about January 12, 2016, the Board's Specialist discussed with Respondent that  
10 he had failed to pay the required random inspection fee in October 2015 of \$54.48.

11 35. On February 12, 2016, the Board received a written consumer complaint from a  
12 fumigation subcontractor, De-One Fumigation Inc. (De-One), Company Registration No. PR  
13 4790, who was performing fumigations for Respondent. Respondent owed De-One the unpaid  
14 balance of \$11,761 for eight fumigations which were subcontracted to De-One and a six-month  
15 payment plan was agreed to on March 25, 2016. Under the plan, Respondent agreed to make five  
16 payments of \$2,000 and one payment of \$1,761 by the 18th of each month until the balance was  
17 paid in full. Respondent failed to comply with the terms and conditions by not paying two  
18 invoices from De-One: (1) Fumigation invoice #5911 dated August 26, 2015 for the property  
19 located at 11244 Homedale Avenue, Los Angeles, CA 90049; \$4,220 was paid on August 12,  
20 2015 and Respondent received payment from the customer the day after the fumigation;  
21 (2) Fumigation invoice #5924 dated August 26, 2015 for the property located at 5015 Onteora  
22 Avenue, Los Angeles, CA 90041; \$5,960 was paid on August 21, 2015 and Respondent received  
23 payment from the customer two days after the fumigation. The printout the Specialist produced  
24 on April 11, 2016 of Respondent's completion activities showed that he had been paid in full for  
25 the fumigations listed above. Respondent breached his payment agreement with De-One, making  
26 one late payment on March 23, 2016 of \$2,000 and another late payment of \$1,500 (less than the  
27 agreed payment of \$2,000) on May 6, 2016. De-One filed a claim against Respondent's bond for  
28 their unpaid subcontract work.

1       36. On April 11, 2016, the Board's Specialist conducted an inspection at Recinos'  
2 Chatsworth office, during which Recinos could not provide him with inspection reports or  
3 completion notices. Respondent stated he did not know how to use his software and allowed the  
4 Board's Specialist to use Respondent's laptop to print his completion activities during the quarter  
5 from October 5, 2015 through January 4, 2016. The inspection report and completion activity  
6 printout showed 11 completion notice activities with a projected 11 inspection report activities  
7 regarding the completions. Only four WDO activities were filed with the Board and 18 WDO  
8 activities were not filed with the Board within the required 10-day time limit.

9       37. During the Board's Specialist's inspection on April 11, 2016, Respondent provided  
10 information about the work he had performed when he did not have active insurance, in violation  
11 of the terms and conditions of his probation. Respondent performed the following licensed work  
12 during the period of time when his insurance was lapsed:

- 13       a. October 28, 2015: Inspection at 10428 Wilkins Avenue, Los Angeles, CA 90024.
- 14       b. October 28, 2015: Completed work at 1229-1231 S. Longwood Avenue, Los Angeles,  
15 CA 90019.
- 16       c. November 4, 2015: Completed work at 540 Schueren Road, Malibu, CA 90265.
- 17       d. November 17, 2015: Inspection at 9809 Oakdale Avenue, Chatsworth, CA 91311.
- 18       e. November 21, 2015: Completed work at 1121 Orange Grove Ave., San Fernando, CA  
19 91340.
- 20       f. December 2, 2015: Inspection at 1632 Stanley Avenue, Los Angeles, CA 90019
- 21       g. December 11, 2015 and January 4, 2016: Inspection and completed work at 6106  
22 Denny Avenue, North Hollywood, CA 91606.
- 23       h. December 14, 2015: Completed work at 9808 Oakdale Avenue, Chatsworth, CA 91311.
- 24       i. December 23, 2015: Completed work at 1632 Stanley Ave., Los Angeles, CA 90019  
25 and 12438 Garber Street, Pacoima, CA 91331.

26       38. At the inspection on April 11, 2016, Respondent's quarterly probation reports were  
27 reviewed and showed that he had failed to comply with the following additional terms and  
28 conditions of his probation:

- 1 a. The quarterly random inspection fees of \$54.48 each for July 10, 2015 and for January  
2 12, 2016 were not paid. The Board notified Recinos via certified mail that his inspection  
3 fees were past due on August 27, 2015, March 10, 2016 and April 21, 2016.
- 4 b. On April 3, 2015, Recinos requested and signed an agreement to make installment  
5 payments regarding the reimbursement of his investigative and enforcement costs for  
6 \$2,968 with the first payment of \$269.82 due on April 4, 2015 and the final payment of  
7 \$269.80 due on October 4, 2017. Recinos made only two payments of \$269.80 on April  
8 17, 2015 and \$269.82 on July 14, 2015, disregarding his agreement. Recinos was  
9 notified by the Board of his failure to fulfill the terms of his payment plan by certified  
10 mail on February 12, 2015 and March 10, 2016.
- 11 c. On April 11, 2016, the Board's Specialist requested all subcontractor agreements from  
12 fumigation companies that Recinos subcontracts with to perform fumigations. He  
13 received one subcontract agreement for De-One. However, as the Board's Specialist  
14 arrived to meet with Recinos, he noticed a fumigation invoice on his desk, and later  
15 found out that it was for a different company named Expert Fumigations Inc. (EFI),  
16 Company Registration No. PR 1402. The Board's Specialist went to EFI's address of  
17 record in El Monte and was told by the President and Qualifying Manager, R.A., that  
18 Recinos signed a subcontractor agreement and other documents with EFI on March 18,  
19 2016. Recinos called in EFI for fumigation at 722 Beverly Glen Blvd., Los Angeles,  
20 CA 90024 and EFI fumigated the property on March 21, 2016. A late WDO activity for  
21 the inspection was submitted on April 11, 2016 for an inspection date of January 23,  
22 2016 and a WDO activity for the completion was not submitted to the Board.  
23 Furthermore, Recinos did not make his fumigation company EFI's records available  
24 upon the Board's request. R.A. of EFI also indicated that Recinos submitted the  
25 fumigation job as 60,000 cubic feet, but R.A. re-measured the property and it was  
26 actually 80,000 cubic feet.
- 27 39. On April 11, 2016, the Board's Specialist traveled to De-One's address of record in  
28 South Gate, reviewed fumigation logs and interviewed the President and QM, E.C. WDO

1 activities for inspections or completions were not filed for the property at 1399 Cassiano Rd., Los  
2 Angeles, CA 90049 and for the fumigation performed on September 9, 2015. WDO activities for  
3 inspections, completions and a new inspection report were not filed. The October 8, 2015 work  
4 was done from an inspection report dated September 19, 2014 for the property at 1229-1231 S.  
5 Longwood Avenue, Los Angeles, CA 90019. WDO activities for completion of the work were  
6 not filed for two properties located at 7045 Bianca Avenue, Van Nuys, CA 91406 and 1573  
7 Viewsite Drive, Los Angeles, CA 90069.

8 40. Early completion notices and certifications were issued before the work was  
9 completed at three properties: (1) 9316 ½ Burnet Avenue, North Hills, CA 91343, completion  
10 issued on June 26, 2015 for fumigation work which was not completed until July 3, 2015; (2)  
11 6928 McLennan Avenue, Van Nuys, CA 91406, completion issued on July 14, 2015 according to  
12 WDO submittal for fumigation work not completed until July 18, 2015; (3) 5300 Ballona Lane,  
13 Culver City, CA 90230, completion issued and dated on August 10, 2015, according to the  
14 completion notice and the WDO activity submittal, but the fumigation work was not completed  
15 until August 12, 2015.

16 41. On April 12, 2016, the Los Angeles County Agricultural Commissioner (LA CAC),  
17 Inspector G.S. emailed the Board's Specialist all of Respondent's submitted monthly pesticide  
18 use reports (PURs) for 2015 and 2016 as well as Respondent's annual registration with the LA  
19 CAC for 2015. These documents show the following failures to comply with the terms and  
20 conditions of Respondent's probation with the Board:

21 a. Respondent did not submit PURs or under reported the pesticides he used; worked  
22 before registering in 2015; and did not register in 2016 (verified on April 12, 2016 and May  
23 16, 2016) with the LA CAC.

24 b. LA CAC issued a violation notice on April 12, 2015 with a citation for \$250 on April  
25 21, 2015. Respondent had not submitted PURs for January 2015 and March 2015 and was  
26 working while not registered with the LA CAC between January and March of 2015. The  
27 citation is delinquent because the fine has not been paid.

1 c. Recinos provided the Board's Specialist with PURs for January, February and March  
2 of 2016, stating that no pesticides had been used. However, Respondent's last PUR  
3 submittal to the LA CAC was in March 2015, but Recinos provided the Board with PURs  
4 subsequent to March 2015 (for May, June, October, November and December of 2015).

5 d. Respondent's February 13, 2016 inspection report for the property located at 3648  
6 Dixie Canyon Avenue, Sherman Oaks, CA 92423 reflects the use of pesticides, in  
7 contradiction to a PUR submitted to the LA CAC which indicates that he did not use  
8 pesticides.

9 e. On April 6, 2016, April 7, 2016 and May 5, 2016, Respondent inspected and  
10 completed work at the property located at 20800 Las Flores Heights Road, Topanga, CA  
11 90290, when Respondent was not registered with the LA CAC.

12 42. The Board found that Recinos failed to file 40 WDO activity submittals in 2014, in  
13 violation of the disciplinary order in Case No. 2014-26; and 23 WDO activity submittals were not  
14 filed during 2015 and 2016. Recinos filed 25 WDO activity submittals on April 11, 2016, of  
15 which 24 were late submittals.

16 43. On May 13, 2016, the Board's Specialist met in person with Recinos to review issues  
17 concerning his non-compliance with terms and conditions of his probation. Respondent filled out  
18 and completed a declaration, in which he made the following statements and admissions (among  
19 others): he did not register with the LA CAC in 2016 and registered late with them in 2015; there  
20 were discrepancies between his quarterly probation reports and his WDO activity submittals; his  
21 reports were sent late; his 2015 October quarterly report was not sent to the Board; there are  
22 WDO activities that have not been filed with the Board; an unpaid fumigation subcontractor filed  
23 a claim against Respondent's bond and was not paid because of "finances"; Recinos worked  
24 during an insurance lapse "unintentionally" and received notice from the Board; Recinos has not  
25 paid random inspection fees or cost recovery; Respondent used his fumigator's measurement of  
26 the Beverly Glen property to ensure proper dosage; and the early completion notices and  
27 certifications "were provided to satisfy lenders' requests".

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1 f. Respondent failed to maintain insurance, in violation of Code sections 8691 and  
2 8695, as set forth above in Paragraphs 33, 37 and 43.

3 g. Respondent breached his payment agreement with De-One by not paying all moneys  
4 owed to De-One for fumigation subcontract work, despite Respondent having received sufficient  
5 funds as payment for the fumigation work, in violation of Code section 8653, as set forth above in  
6 Paragraphs 39 and 43.

7 h. Respondent failed to recommend removing or covering all accessible pellets and frass  
8 of wood destroying pests, in violation of California Code of Regulations, title 16, section 1991,  
9 subdivision (a)(C)(3).

10 i. Respondent failed to provide a corrected pesticide notice to the owner; the notice  
11 which was provided contained an incorrect address for the Board and listed a fumigant, Methyl  
12 Bromide, which is no longer used for structural pest control, in violation of Code section 8538,  
13 subdivision (a)(3).

## 14 **SECOND CAUSE TO REVOKE PROBATION**

### 15 **(Failed to File Quarterly Report)**

16 46. At all times after the effective date of Respondents' probation, Condition 2 stated:

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

19 47. Respondents' probation is subject to revocation, in that they failed to comply with  
20 Condition 2, referenced above, by failing to file their October 4, 2015 quarterly report covering  
21 the time period from July 4, 2015 through October 5, 2015, pursuant to California Title 16, Code  
22 of Regulations, section 1937.12, subdivision (a)(1). Respondent Recinos was notified by the  
23 Board by certified mail on March 10, 2016 that the Board had not received his report.

## 24 **THIRD CAUSE TO REVOKE PROBATION**

### 25 **(Failed to File WDO Activity Reports)**

26 48. At all times after the effective date of Respondent's probation, Condition 8 stated:

27 "8. **WDO Reports.** Respondent Recinos shall file with the Board any unreported Wood  
28 Destroying Organisms (WDO) activities, including, but not limited to, inspection reports, limited

1 reports, corrected reports, and work completed reports, no later than thirty (30) days from the  
2 effective date of this decision.”

3 49. Respondent’s probation is subject to revocation, in that he failed to comply with  
4 Condition 8 by failing to file reports of WDO activities with the Board no later than 30 days from  
5 the effective date of the decision, pursuant to Code sections 8516, subdivision (b), 8641, and 8518  
6 and California Code of Regulations, title 16, section 1996.3, as set forth above in greater detail in  
7 Paragraphs 29-43 which are hereby incorporated by reference as though alleged herein.

#### 8 **FOURTH CAUSE TO REVOKE PROBATION**

##### 9 **(Failed to Pay Random Inspection Fees)**

10 50. At all times after the effective date of Respondent’s probation, Condition 9 stated:

11 “9. **Random Inspections.** Respondents shall reimburse the Board for one (1) Random  
12 inspection per quarter by Board specialists during the period of probation not to exceed \$125 per  
13 inspection.”

14 51. Respondents’ probation is subject to revocation, in that they failed to comply with  
15 Condition 9 by failing to pay all random inspection fees, as set forth above in Paragraphs 34,  
16 38(a) and 43, which are fully incorporated here by this reference.

#### 17 **FIFTH CAUSE TO REVOKE PROBATION**

##### 18 **(Failure to Pay Costs)**

19 52. At all times after the effective date of Respondent’s probation, Condition 10 stated:

20 10. **Cost Recovery.** Pursuant to Section 125.3 of the California Business  
21 and Professions Code, Respondents shall pay to the Board investigation and  
22 enforcement costs in the amount of \$2,968, according to a payment schedule that has  
23 been approved by the Board. Investigation and enforcement costs must be paid in full  
no later than three (3) months prior to the end of probation. Probation shall not be  
terminated until all costs are paid in full.

24 53. Respondents’ probation is subject to revocation, in that they failed to comply with  
25 Condition 10 by failing to pay investigation and enforcement costs, as set forth above in  
26 Paragraphs 38(b) and 43, which are fully incorporated here by this reference.

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1 Company Registration No. PR 5228, issued to Factor X Terminators, Inc. with David Recinos as  
2 President and Qualifying Manager and Operator's License Number OPR 10926, issued to David  
3 Recinos;

4 3. Prohibiting David Recinos from serving as an officer, director, associate,  
5 partner, qualifying manager or responsible managing employee of any registered company during  
6 the period that discipline is imposed on Company Registration No. PR. 5228, issued to Factor X  
7 Terminators, Inc., with David Recinos as President and Qualifying Manager;

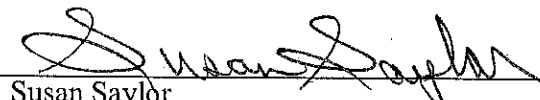
8 4. Revoking or suspending Operator's License Number OPR 10926, issued to  
9 David Recinos;

10 5. Prohibiting David Recinos from serving as an officer, director, associate,  
11 partner, qualifying manager or responsible managing employee of any registered company during  
12 the period that discipline is imposed on Operator's License Number OPR 10926, issued to David  
13 Recinos;

14 6. Ordering David Recinos to pay the Structural Pest Control Board the reasonable  
15 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
16 Code section 125.3; and

17 7. Taking such other and further action as deemed necessary and proper.

18 DATED: 12/28/11

19   
20 Susan Saylor  
21 Registrar/Executive Officer  
22 Structural Pest Control Board  
23 Department of Consumer Affairs  
24 State of California  
25 Complainant