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

In the Matter of the Accusation Against:

Case No. 2016-55

JEFFREY J. FUENTES 6155 North Carica Avenue Fresno, CA 93722

Operator's License No. OPR 11312

STRIKE FIRST EXTERMINATOR CO. JEFFREY J. FUENTES, QM & PARTNER 6732 North Valentine Avenue Fresno, CA 93711

Company Registration Certificate No. PR 5544

Respondents.

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 November 24, 2016

It is so ORDERED October 25, 2016

FOR THE STRUCTURAL PEST CONTROL BOARD DEPARTMENT OF CONSUMER AFFAIRS

1	KAMALA D. HARRIS		
2	Attorney General of California JANICE K. LACHMAN	•	
3	Supervising Deputy Attorney General KRISTINA T. JARVIS		
4	Deputy Attorney General State Bar No. 258229		
5	1300 I Street, Suite 125 P.O. Box 944255		
6	Sacramento, CA 94244-2550 Telephone: (916) 324-5403		
.7	Facsimile: (916) 327-8643 Attorneys for Complainant		
8			
9	BEFORE THE STRUCTURAL PEST CONTROL BOARD		
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
11	In the Matter of the Accusation Against:	Case No. 2016-55	
12 13	JEFFREY J. FUENTES 6155 North Carica Avenue Fresno, CA 93722	STIPULATED SETTLEMENT AND DISCIPLINARY ORDER	
14	Operator's License No. OPR 11312		
15 [°] 16	STRIKE FIRST EXTERMINATOR CO. JEFFREY J. FUENTES, QM & PARTNER 6732 North Valentine Avenue Fresno, CA 93711		
17	Company Registration Certificate No. PR 5544		
18	Respondents.		
19	recopondents.		
20	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-		
21	entitled proceedings that the following matters are true:		
22	<u>PARTIES</u>		
23	1. Susan Saylor (Complainant) is the Registrar/Executive Officer of the Structural Pest		
24	Control Board. She brought this action solely in her official capacity and is represented in this		
25	matter by Kamala D. Harris, Attorney General of the State of California, by Kristina T. Jarvis,		
26	Deputy Attorney General.		
27	2. Respondent Jeffrey J. Fuentes ("Respondent") is representing himself in this		
28	proceeding and has chosen not to exercise his right to be represented by counsel.		
	1		

- 1. On or about May 3, 2006, the Board issued Operator's License Number OPR 11312, Branch 2, to Jeffrey J. Fuentes ("Respondent Fuentes"). On or about February 29, 2008, Respondent Fuentes became a Partner and Qualifying Manager of Strike First Exterminator Co. The Operator's License was suspended on June 9, 2015, for failure to maintain general liability insurance (Code section 8690), and will expire under suspension on June 30, 2017, unless renewed.
- 2. On or about February 29, 2008, the Board issued Company Registration Certificate No. PR 5544 to Respondent Fuentes as Partner and Qualifying Manager of Strike First Exterminator Co., ("Respondent Company"). The Registration Certificate was suspended on June 9, 2015, for failure to maintain general liability insurance (Code section 8690).

JURISDICTION

- 3. Accusation No. 2016-55 was filed before the Structural Pest Control Board (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 6, 2016. Respondent timely filed his Notice of Defense contesting the Accusation.
- 4. A copy of Accusation No. 2016-55 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

- Respondent has carefully read, and understands the charges and allegations in
 Accusation No. 2016-55. Respondent has also carefully read, and understands the effects of this
 Stipulated Settlement and Disciplinary Order.
- 6. Respondent is fully aware of his 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 his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his 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.

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

CULPABILITY

- 8. Respondent admits the truth of each and every charge and allegation in Accusation No. 2016-55.
- 9. Respondent agrees that his Operator's License and Company Registration are subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

- Respondent understands and agrees 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 Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his 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.
- 11. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.
- 12. 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.

12

11

14 15

13

16

17

18

19 20

21 22

23

24 25

26 27

28

 $/\!/\!/$

In consideration of the foregoing admissions and stipulations, the parties agree that 13. the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Operator's License No. OPR 11312 and Company Registration Certificate No. PR 5544 issued to Respondent Jeffrey J. Fuentes are revoked. However, the revocations are stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

- Obey All Laws. Respondent shall obey all Federal, State, and local laws, as well as 1. all laws and rules relating to the practice of structural pest control,
- Quarterly Reports. Respondent shall file quarterly reports with the Board during 2. the period of probation.
- Tolling of Probation. Should Respondent leave California to reside outside this 3. state, Respondent 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. Respondent shall notify all present and prospective employers of the decision in case no. 2016-55 and the terms, conditions and restriction imposed on Respondent by said decision.

Within 30 days of the effective date of this decision, and within 15 days of Respondent undertaking new employment, Respondent shall cause his/her employer to report to the Board in writing acknowledging the employer has read the decision in case No. 2016-55.

Notice to Employees. Respondent shall, upon or before the effective date of this ·5. decision, post or circulate a notice to all employees involved in structural pest control operations which accurately recite the terms and conditions of probation. Respondent 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, Respondent's license/certificate will be fully restored.
- 7. Violation of Probation. Should Respondent violate probation in any respect, the Board, after giving Respondent 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 Respondent 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. Continuing Education Courses: Respondent Jeffrey J. Fuentes shall complete continuing education courses as required by his license. Continuing Education Courses taken and completed through the Advanced Institute of Pest Technology on June 17, 2016, and previously submitted to the Board during this disciplinary proceeding cannot be used towards Respondent's operator license renewal.
- 9. Prohibited from Serving as Officer, Director, Associate, Partner or Qualifying Manager. Respondent is prohibited from serving as an officer, director, associate, partner, qualifying manager or branch office manager of more than one (1) registered company during the period that discipline is imposed on Operator's License No. OPR 11312 or Company Registration No. PR 5544.
- 10. Additional License or Company Registration. Any additional license or company registration issued to Respondent shall be placed on probation under the same terms and conditions during the period that discipline is imposed on Operator License No. OPR 11312 or Company Registration No. PR 5544 issued to Jeffrey J. Fuentes.
- 11. Cost Recovery. Respondent's operator license and company registration shall be jointly and severally liable for the costs incurred by the Board for investigation and prosecution of this matter. Respondent shall pay the Board \$1,342.50 for the reasonable costs of the investigation and prosecution of Case No. 2016-55. Said costs may be paid in monthly installments as agreed by the Board or its designee, and shall 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.

1 **ACCEPTANCE** I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the 2 stipulation and the effect it will have on my Operator's License and Company Registration 3 Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, 4 and intelligently, and agree to be bound by the Decision and Order of the Structural Pest Control 5 Board. б 7 8 STRIKE FIRST EXTERMINATOR CO. 10 Respondent **ENDORSEMENT** 12 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully. .13 submitted for consideration by the Structural Pest Control Board. : 14 Dated: August 5, 2016 15 Respectfully submitted, 16 KAMALA D. HARRIS Attorney General of California 17 JANICE K. LACHMAN Supervising Deputy Attorney General 18 19 KRISTINA T. JAKVIS 20 Deputy Attorney General Attorneys for Complainant 22 23 24 25

11

21

26

27

28

SA2016101608 12362643.doc

1	KAMALA D. HARRIS Attorney General of California		
2	JANICE K. LACHMAN Supervising Deputy Attorney General	FILED	
3	KRISTINA T. JARVIS Deputy Attorney General	Date 5 3 16 By & War	
4	State Bar No. 258229	'I saylar	
5	1300 I Street, Suite 125 P.O. Box 944255	,	
6	Sacramento, CA 94244-2550 Telephone: (916) 324-5403 Facsimile: (916) 327-8643		
7	Attorneys for Complainant		
8	BEFORE THE STRUCTURAL PEST CONTROL BOARD DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
9			
10			
11	In the Matter of the Accusation Against:	Case No. 2016-55	
12	JEFFREY J. FUENTES	ACCUSATION	
13	6155 North Carica Avenue Fresno, CA 93722		
14	Operator's License No. OPR 11312		
15	STRIKE FIRST EXTERMINATOR CO.		
16	JEFFREY J. FUENTES, QM & PARTNER 6732 North Valentine Avenue		
17	Fresno, CA 93711		
18	Company Registration Certificate No. PR 5544		
19	Respondents.		
20	Susan Saylor ("Complainant") alleges:		
21	PARTIES		
22	1. Complainant brings this Accusation solely in her official capacity as the		
23	Registrar/Executive Officer of the Structural Pest Control Board ("Board"), Department of		
24	Consumer Affairs.		
25	2. On or about May 3, 2006, the Board issued Operator's License Number OPR 11312,		
26	Branch 2, to Jeffrey J. Fuentes ("Respondent Fuentes"). On or about February 29, 2008,		
27	Respondent Fuentes became a Partner and Qualifying Manager of Strike First Exterminator Co.		
28	The Operator's License was suspended on June 9, 2015, for failure to maintain general liability		
	1		

insurance (Code section 8690), and will expire under suspension on June 30, 2017, unless renewed.

3. On or about February 29, 2008, the Board issued Company Registration Certificate No. PR 5544 to Respondent Fuentes as Partner and Qualifying Manager of Strike First Exterminator Co., ("Respondent Company"). The Registration Certificate was suspended on June 9, 2015, for failure to maintain general liability insurance (Code section 8690).

JURISDICTION

4. This Accusation is brought before the Structural Pest Control Board, Department of Consumer Affairs.

STATUTORY AND REGULATORY PROVISIONS

- 5. Code section 8620 states 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.
 - 6. Code section 8624 states in pertinent part, that:

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...

7. Code section 8654 states:

Any individual who has been denied a license for any of the reasons specified in Section 8568, or who has had his or her license revoked, or whose license is under suspension, or who has failed to renew his or her license while it was 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 application for a company registration has been denied for any of the reasons specified in Section 8568, or whose company registration has been revoked as a result of disciplinary action, or whose company registration is under suspension, and while acting as such member, officer, director, associate, qualifying

manager, or responsible managing employee had knowledge of or participated in any

of the prohibited acts for 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.

8. 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.

Code section 8593 states:

The board shall require as a condition to the renewal of each operator's and field representative's license that the holder submit proof satisfactory to the board that he or she has informed himself or herself of developments in the field of pest control either by completion of courses of continuing education in pest control approved by the board or equivalent activity approved by the board. In lieu of submitting that proof, the licenseholder, if he or she so desires, may take and successfully complete an examination given by the board, designed to test his or her knowledge of developments in the field of pest control since the issuance of his or her license.

The board shall develop a correspondence course or courses with any educational institution or institutions as it deems appropriate. This course may be used to fulfill the requirements of this section. The institution may charge a reasonable fee for each course.

The board may charge a fee for the taking of an examination in each branch of pest control pursuant to this section in an amount sufficient to cover the cost of administering each examination, provided, however, that in no event shall the fee exceed fifty dollars (\$50) for each examination.

- 10. California Code of Regulations, title 16, section ("Regulation") 1950 states, in pertinent part:
 - (a) Except as provided in section 1951, every licensee is required, as a condition to renewal of a license, to certify that he or she has completed the continuing education requirements set forth in this article. A licensee who cannot verify completion of continuing education by producing certificates of activity completion, whenever requested to do so by the Board, may be subject to disciplinary action under section 8641 of the code.
 - (b) Each licensee is required to complete a certain number of continuing education hours during the three year renewal period. The number of hours required depends on the number of branches of pest control in which licenses are held. The subject matter covered by each activity shall be designated as "technical" or "general" by the Board when the activity is approved. Hour values shall be assigned by the Board to each approved educational activity, in accordance with the provisions of section 1950.5.

(d) Field representatives licensed in one branch of pest control shall have completed 16 continuing education hours, field representatives licensed in two branches of pest control shall have completed 20 continuing education hours, field representatives licensed in three branches of pest control shall have completed 24 continuing education hours during each three year renewal period. In each case, a minimum of four continuing education hours in a technical subject directly related to each branch of pest control held by the licensee must be completed for each branch of pest control licensed, a minimum of two hours in Integrated Pest Management must be completed by Branch 2 and/or 3 licensees renewing on or after June 30, 2010, and a minimum of eight hours must be completed from Board approved courses on the Structural Pest Control Act, the Rules and Regulations, or structural pest control related agencies' rules and regulations. . . .

COST RECOVERY

11. Code section 125.3 states, in pertinent part, that a 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.

CAUSE FOR DISCIPLINE

(Failure to Verify Completion of Continuing Education)

- 12. In or around June 2014, Respondent Fuentes submitted a license renewal application to the Board. On or about June 28, 2014, Respondent Fuentes certified under penalty of perjury on the application form that he completed 16 hours of continuing education during his last renewal period.
- 13. On November 3, 2014, March 3, 2015, May 18, 2015, and July 23, 2015, a Board representative sent Respondent Fuentes written requests for copies of his continuing education certificates for the renewal period July 1, 2011, through June 30, 2014. Respondent Fuentes was advised that his failure to verify his continuing education hours or to supply the requested information could subject his operator license to disciplinary action.
- 14. Respondent Fuentes is subject to discipline pursuant to Code section 8641, in that he failed to comply with Code Section 8593 and Regulation section 1950(a) by failing to verify that he completed courses of continuing education in pest control approved by the Board. Specifically, Respondent Fuentes failed to submit copies of his continuing education certificates for the renewal period July 1, 2011, through June 30, 2014, as requested by the Board representative.

///

OTHER MATTERS

- 15. Code section 8620 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.
- 16. Pursuant to Code section 8654, if discipline is imposed on Operator License Number OPR 11312, issued to Respondent Jeffrey J. Fuentes, Jeffrey J. Fuentes 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.
- 17. Pursuant to Code section 8624, if discipline in the form of suspension or revocation is imposed on Operator License Number OPR 11312, issued to Respondent Fuentes as the Qualifying Manager of Respondent First Strike Exterminator Co., the suspension or revocation may also be applied to the Company Registration.

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 Operator License Number OPR 11312, issued to Jeffrey J. Fuentes;
- 2. Prohibiting Jeffrey J. Fuentes 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 Operator License Number OPR 11312, issued to Jeffrey J. Fuentes;
- 3. Revoking or suspending Company Registration No. PR 5544, issued to Strike First Exterminator Co.;

- 4. Ordering Jeffrey J. Fuentes 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,
 - 5. Taking such other and further action as deemed necessary and proper.

DATED: 5 3 16

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

SA2016101608 12213682.doc