

Date: 9/4/12 By: Susan Saylor

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9 **BEFORE THE**
STRUCTURAL PEST CONTROL BOARD
10 **DEPARTMENT OF PESTICIDE REGULATION**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-12

13 **ENVIRONMENT 1ST EXTERMINATING**
14 **INC.; JAMES SEABERN, OWNER AND**
15 **QUALIFYING MANAGER**
2340 South El Camino Real, Suite #13
San Clemente, CA 92672

A C C U S A T I O N

16 **Company Registration Certificate No. PR**
17 **2060**

18 and

19 **JAMES JUSTIN SEABERN**
20 **2340 South El Camino Real, Suite #13**
San Clemente, CA 92672

21 **Operator's License No. OPR 9071**

22 Respondents.

24 Complainant alleges:

25 **PARTIES**

26 1. Susan Saylor (Complainant) brings this Accusation solely in her official capacity as
27 the Assistant Executive Officer of the Structural Pest Control Board, Department of Pesticide
28 Regulation.

1 of or action or disciplinary proceeding against such licensee or company, or to render a decision
2 suspending or revoking such license or registration."

3 STATUTORY PROVISIONS

4 7. Section 8617 of the Code states:

5 "...

6 "(f) Failure of a licensee or registered company to pay a fine within 30 days of the date of
7 assessment or to comply with the order of suspension, unless the citation is being appealed, may
8 result in disciplinary action being taken by the board.

9 "Where a citation containing a fine is issued to a licensee and it is not contested or the time
10 to appeal the citation has expired and the fine is not paid, the full amount of the assessed fine
11 shall be added to the fee for renewal of that license. A license shall not be renewed without
12 payment of the renewal fee and fine.

13 "Where a citation containing a fine is issued to a registered company and it is not contested
14 or the time to appeal the citation has expired and the fine is not paid, the board shall not sell to the
15 registered company any pesticide use stamps until the assessed fine has been paid.

16 "Where a citation containing the requirement that a licensee attend and pass a board-
17 approved course of instruction is not contested or the time to appeal the citation has expired and
18 the licensee has not attended and passed the required board-approved course of instruction, the
19 licensee's license shall not be renewed without proof of attendance and passage of the required
20 board-approved course of instruction."

21 8. Section 8624 of the Code states:

22 "If the board suspends or revokes an operator's license and one or more branch offices are
23 registered under the name of the operator, the suspension or revocation may be applied to each
24 branch office.

25 "If the operator is the qualifying manager, a partner, responsible officer, or owner of a
26 registered structural pest control company, the suspension or revocation may be applied to the
27 company registration.

28

1 "The performance by any partnership, corporation, firm, association, or registered company
2 of any act or omission constituting a cause for disciplinary action, likewise constitutes a cause for
3 disciplinary action against any licensee who, at the time the act or omission occurred, was the
4 qualifying manager, a partner, responsible officer, or owner of the partnership, corporation, firm,
5 association, or registered company whether or not he or she had knowledge of, or participated in,
6 the prohibited act or omission."

7 9. Section 8654 of the Code states:

8 "Any individual who has been denied a license for any of the reasons specified in Section
9 8568, or who has had his or her license revoked, or whose license is under suspension, or who has
10 failed to renew his or her license while it was under suspension, or who has been a member,
11 officer, director, associate, qualifying manager, or responsible managing employee of any
12 partnership, corporation, firm, or association whose application for a company registration has
13 been denied for any of the reasons specified in Section 8568, or whose company registration has
14 been revoked as a result of disciplinary action, or whose company registration is under
15 suspension, and while acting as such member, officer, director, associate, qualifying manager, or
16 responsible managing employee had knowledge of or participated in any of the prohibited acts for
17 which the license or registration was denied, suspended or revoked, shall be prohibited from
18 serving as an officer, director, associate, partner, qualifying manager, or responsible managing
19 employee of a registered company, and the employment, election or association of such person by
20 a registered company is a ground for disciplinary action."

21 REGULATORY PROVISIONS

22 10. Title 16, California Code of Regulations, Section 1920 states:

23 "...

24 "(d) Compliance with Orders of Abatement:

25 "When a citation is not contested or if the citation is appealed and the person cited does not
26 prevail, failure to comply with the order of abatement or to pay the fine in the citation within the
27 time allowed by a licensee may result in disciplinary action being taken by the Board against the
28

1 person cited, or where the cited person is unlicensed in appropriate judicial relief being taken
2 against the person cited.

3 "...."

4 COSTS

5 11. Section 125.3 of the Code states, in pertinent part, that a Board may request the
6 administrative law judge to direct a licentiate found to have committed a violation or violations of
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case.

9 CAUSE FOR DISCIPLINE

10 (Failure to Pay Citation and Comply with Order of Abatement)

11 12. Respondents Environment and Seabern are subject to disciplinary action under Code
12 section 8617, subdivision (f), and title 16, California Code of Regulations, section 1920 in that
13 they failed to pay a citation and comply with an order of abatement. The circumstances are as
14 follows:

15 13. On or about March 24, 2011, Respondents Environment and Seabern were issued
16 Citation No. CF 11-77 for failure to file 458 Wood Destroying Organism (WDO) activities. The
17 citation included a fine of \$3,645.00 and an order of abatement requiring Respondents to file all
18 remaining unreported WDO activities within thirty days of the citation. Respondents requested
19 an informal conference about the citation, and on or about May 3, 2011, Respondent and
20 Complainant held an informal conference. On or about May 5, 2011, Complainant issued a
21 written decision affirming the citation in full. Specifically, Complainant ordered Respondents to
22 "comply with the order of abatement and shall file all unreported wood destroying organisms
23 activities within 30 days of receipt of this decision toward the first \$1,145 of the fine. [¶] The
24 remaining balance of \$2,500 shall be paid within one hundred twenty (120) days of receipt of this
25 decision." Respondents did not pay the fine or comply with the order of abatement.

26 14. On or about September 20, 2011, Respondents Environment and Seabern were issued
27 Citation No. CF 12-34 for practicing structural pest control without appropriate bond coverage.
28

1 The citation included a fine of \$50.00 to be paid within thirty days. Respondents did not comply
2 with this citation.

3 15. On or about September 26, 2011, Respondents Environment and Seabern were issued
4 Citation No. CF 12-41 for failure to pay monies due for materials or services rendered in
5 connection with its operations as a registered pest control company. The citation included a fine
6 of \$750.00 to be paid within thirty days. Respondents did not comply with this citation.

7 16. On or about April 10, 2012, Respondents Environment and Seabern were issued
8 Citation No. CF 12-113 for practicing structural pest control without appropriate bond coverage.
9 The citation included a fine of \$500.00 to be paid within thirty days. Respondents did not comply
10 with this citation.

11 OTHER MATTERS

12 17. Respondent Seabern was the qualifying manager and owner on the Company
13 Registration Certificate at the time acts or omission occurred that constitute cause for discipline
14 against Respondent Environment.

15 18. Pursuant to Section 8624, if the Board suspends or revokes Respondent Seabern's
16 operator's license and one or more branch offices are registered under Respondent Seabern, the
17 suspension or revocation may be applied to each branch office and the suspension or revocation
18 may be applied to his company's registration. Also, the performance by Respondent
19 Environment of any act or omission constituting a cause for disciplinary action likewise
20 constitutes a cause for disciplinary action against Respondent Seabern as the qualifying manager
21 or owner of Respondent Environment.

22 19. Pursuant to Section 8654 of the Code, if Respondent Seabern has his operator's
23 license revoked or suspended, or the company registration of Respondent Environment is
24 revoked, Respondent Seabern shall be prohibited from serving as an officer, director, associate,
25 partner, qualifying manager, or responsible managing employee of a registered company, and the
26 employment, election or association of Respondent Seabern by a registered company will be a
27 ground for disciplinary action.

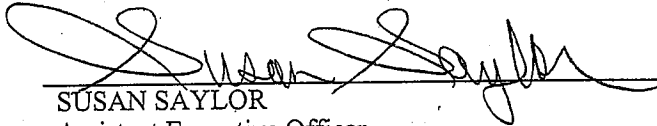
28 PRAYER

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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 2060, issued to Environment 1st Exterminating Inc.;
2. Revoking or suspending Operator's License Number OPR 9071, issued to James Seabern;
3. Ordering James Seabern and Environment 1st Exterminating Inc. 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
4. Prohibiting James Seabern from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee of a registered company; and
5. Taking such other and further action as deemed necessary and proper.

DATED: 9/4/12



SUSAN SAYLOR
Assistant Executive Officer
Structural Pest Control Board
Department of Pesticide Regulation
State of California
Complainant

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