

**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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2 LINDA K. SCHNEIDER
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9 **BEFORE THE**
10 **STRUCTURAL PEST CONTROL BOARD**
11 **DEPARTMENT OF PESTICIDE REGULATION**
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

OAH No. 2012110884

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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.

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24 In the interest of a prompt and speedy settlement of this matter, consistent with the public
25 interest and the responsibility of the Structural Pest Control Board of the Department of Pesticide
26 Regulation, the parties hereby agree to the following Stipulated Settlement and Disciplinary
27 Order which will be submitted to the Board for approval and adoption as the final disposition of
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1 the Accusation with respect to both Environment 1st Exterminating Inc. (Respondent
2 Environment) and James Justin Seabern (Respondent Seabern).

3 PARTIES

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

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

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

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

22 JURISDICTION

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

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

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

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

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

18 **DISCIPLINARY ORDER**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 12. **Order of Abatement.** Within 30 days of the effective date of the decision,
12 Respondents shall comply with the order of abatement in Citation No. CF 11-77. If Respondents
13 fail to comply with the order of abatement within 30 days, the Company Registration Certificate
14 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
Deputy Attorney General
Attorneys for Complainant

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