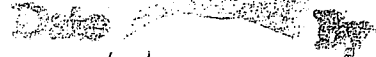


FILED

Date 

6/7/12

William H. Douglas

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8
9 **BEFORE THE**
STRUCTURAL PEST CONTROL BOARD
10 **DEPARTMENT OF PESTICIDE REGULATION**
STATE OF CALIFORNIA

11
12 In the Matter of the Accusation Against:

Case No. 2012-58

13 **PLATINUM EXTERMINATORS**
14 **LEAH ANN TRIBBLE, QM**
847 South Orange Avenue
15 West Covina, California 91790

ACCUSATION

16 **Company Registration License No. PR 5127, Br. 2 and 3**
17 **Operator License No. OPR 7711, Br. 2 and 3**

18 -and-

19 **27614 Potomac Drive**
20 **Sun City, Ca. 92586**

21 **JOSE ANTONIO RUIZ**
847 South Orange Avenue
22 West Covina, California 91790

23 **Operator License No. OPR 12259, Br. 3**
24 **Field Representative License No. FR 45946, Br. 2**
25
26
27

28

1 ALLSTAR FUMIGATION, INC.
2 CHRISTIAN PONCE, PRESIDENT
3 JAIME CHAVEZ, QM
4 3756 Dalton Avenue
5 Los Angeles, Ca. 90018

6
7 **Company Registration No. PR 5704, Br. 1**
8 **Operator License No. OPR 11254, Br. 1**

9
10 COUNTRY WIDE FUMIGATION
11 JAIME CHAVEZ, QM
12 P.O. Box 18947
13 Los Angeles, Ca. 90018

14
15 **Company Registration License No. PR 6285, Br. 1**
16 **Operator License No. OPR 11254, Br. 1**

17 Respondents.

18 William H. Douglas ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Accusation solely in his official capacity as the Interim
21 Executive Officer/Registrar of the Structural Pest Control Board ("Board"), Department of
22 Pesticide Regulation.

23 **Company Registration Certificate No. PR 5127**

24 2. On or about September 1, 2006, the Board issued Company Registration Certificate
25 Number PR 5127 ("registration") to Platinum Exterminators ("Respondent or Respondents") in
26 Branch 3, with Jose Antonio Ruiz as Owner ("Respondent Ruiz or Respondents") and Leah Ann
27 Tribble ("Respondent Tribble or Respondents") as Qualifying Manager. On or about March 18,
28 2008, Company Registration Certificate Number PR 5127 was upgraded to include Branches 2
and 3 and reflected Respondent Tribble as Branch 2 Qualifying Manager. On or about April 2,
2009, Company Registration Certificate Number PR 5127 reflected the disassociation of
Respondent Tribble as Branch 2 and 3 Qualifying Manager. On or about July 2, 2009, Company

1 Registration Certificate Number PR 5127 reflected Respondent Tribble as Qualifying Manager.
2 On or about August 11, 2011, Company Registration Certificate Number PR 5127 reflected the
3 disassociation of Respondent Tribble as Qualifying Manager. On or about August 23, 2011,
4 Company Registration Certificate Number PR 5127 reflected Jose Antonio Ruiz as Branch 3
5 Qualifying Manager. On or about September 20, 2011, Company Registration Certificate Number
6 PR 5127 was downgraded to include Branch 3 only.

7 **Operator's License No. OPR 7711**

8 3. On or about July 16, 1987, the Board issued Operator's License Number OPR 7711
9 ("license") in Branch 2 to Respondent Tribble. On or about April 29, 1991, Operator's License
10 Number OPR 7711 was upgraded to include Branches 2 and 3. On or about September 1, 2006,
11 Operator's License Number OPR 7711 became the Qualifying Manager of Platinum
12 Exterminators. On or about March 18, 2008, Operator's License Number OPR 7711 became the
13 Branch 2 Qualifying Manager of Platinum Exterminators. On or about April 2, 2009, Operator's
14 License Number OPR 7711 disassociated as the Branch 2 and 3 Qualifying Manager of Platinum
15 Exterminators. On or about July 2, 2009, Operator's License Number OPR 7711 became the
16 Branch 2 and 3 Qualifying Manager of Platinum Exterminators. On or about August 11, 2011,
17 Operator's License Number OPR 7711 disassociated as Qualifying Manager of Platinum
18 Exterminators. The Operator's license will expire on June 30, 2014, unless renewed.

19 **Operator's License No. OPR 12259**

20 4. On or about August 23, 2011, the Board issued Operator's License Number OPR
21 12259 ("license") in Branch 3 to Respondent Ruiz as Owner and Branch 3 Qualifying Manager of
22 Platinum Exterminators. The Operator's license will expire on June 30, 2014, unless renewed.

23 **Field Representative's License No. FR 45946, Br. 2**

24 5. On or about September 14, 2010, the Board issued Field Representative's License
25 Number FR 45946 ("license") in Branch 2 to Respondent Ruiz. The license will expire on June
26 30, 2013, unless renewed.

27 ///

28 ///

1 **Company Registration Certificate No. PR 5704**

2 6. On or about October 20, 2008, the Board issued Company Registration Certificate
3 Number PR 5704 (“registration”) to Allstar Fumigation, Inc. (“Respondent Allstar or
4 Respondents”) in Branch 1, with Florencio Ponce as President, Christian Ponce as Vice President,
5 and Abdul-Aleem Rasheed as Qualifying Manager. On or about May 18, 2009, Company
6 Registration Certificate Number PR 5704 reflected the disassociation of Abdul-Aleem Rasheed
7 as Branch 1 Qualifying Manager. On or about February 8, 2010, Company Registration
8 Certificate Number PR 5704 reflected Raymundo Esteban Gill as Qualifying Manager. On or
9 about June 14, 2010, Company Registration Certificate Number PR 5704 reflected the
10 disassociation of Raymundo Esteban Gill as Qualifying Manager. On or about July 9, 2010,
11 Company Registration Certificate Number PR 5704 reflected Susana Haro as Qualifying
12 Manager. On or about July 12, 2010, Company Registration Certificate Number PR 5704
13 reflected the disassociation of Susana Haro as Qualifying Manager. On or about August 12,
14 2010, Company Registration Certificate Number PR 5704 reflected Jaime Chavez (“Respondent
15 Chavez or Respondents”) as Qualifying Manager. On or about February 10, 2011, Company
16 Registration Certificate Number PR 5704 reflected the disassociation of Jaime Chavez as
17 Qualifying Manager.

18 **Operator’s License No. OPR 11254**

19 7. On or about January 27, 2006, the Board issued Operator’s License Number OPR
20 11254 (“license”) in Branch 1 to Respondent Chavez . On or about August 12, 2010, Operator’s
21 License Number OPR 11254 became the Qualifying Manager of Respondent Allstar. On or about
22 February 10, 2011, Operator’s License Number OPR 11254 disassociated as the Qualifying
23 Manager of Respondent Allstar. The Operator’s license will expire on June 30, 2014, unless
24 renewed.

25 **Company Registration Certificate No. PR 6285**

26 8. On or about May 5, 2011, the Board issued Company Registration Certificate
27 Number PR 6285 (“registration”) to Country Wide Fumigation (“Respondent Country Wide or
28

1 Respondents”) in Branch 1, with Ambar A. Byrami as owner, and Respondent Chavez as
2 Qualifying Manager.

3 JURISDICTION

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

8 10. Code section 8624 states:

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

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

15 The performance by any partnership, corporation, firm, association, or registered
16 company of any act or omission constituting a cause for disciplinary action, likewise
17 constitutes a cause for disciplinary action against any licensee who, at the time the act or
18 omission occurred, was the qualifying manager, a partner, responsible officer, or owner of
19 the partnership, corporation, firm, association, or registered company whether or not he or
20 she had knowledge of, or participated in, the prohibited act or omission.

21 11. Code section 8625 states:

22 The lapsing or suspension of a license or company registration by operation of law or
23 by order or decision of the board or a court of law, or the voluntary surrender of a license or
24 company registration shall not deprive the board of jurisdiction to proceed with any
25 investigation of or action or disciplinary proceeding against such licensee or company, or to
26 render a decision suspending or revoking such license or registration.

27 12. Code section 8622 states:

28 When a complaint is accepted for investigation of a registered company, the board,
through an authorized representative, may inspect any or all properties on which a report
has been issued pursuant to Section 8516 or a notice of completion has been issued
pursuant to Section 8518 by the registered company to determine compliance with the
provisions of this chapter and the rules and regulations issued thereunder. If the board
determines the property or properties are not in compliance, a notice shall be sent to the
registered company so stating. The registered company shall have 30 days from the receipt
of the notice to bring such property into compliance, and it shall submit a new original
report or completion notice or both and an inspection fee of not more than one hundred

1 twenty-five dollars (\$125) for each property inspected. If a subsequent reinspection is
2 necessary, pursuant to the board's review of the new original report or notice or both, a
3 commensurate reinspection fee shall also be charged. If the board's authorized
representative makes no determination or determines the property is in compliance, no
inspection fee shall be charged.

4 The notice sent to the registered company shall inform the registered company that if
5 it desires a hearing to contest the finding of noncompliance, the hearing shall be requested
6 by written notice to the board within 20 days of receipt of the notice of noncompliance from
the board. Where a hearing is not requested pursuant to this section, payment of any
assessment shall not constitute an admission of any noncompliance charged.

7 STATUTORY PROVISIONS

8 13. Code section 8516 states, in pertinent part:

9 (b) No registered company or licensee shall commence work on a contract, or sign,
10 issue, or deliver any documents expressing an opinion or statement relating to the absence
11 or presence of wood destroying pests or organisms until an inspection has been made by a
12 licensed Branch 3 field representative or operator. The address of each property inspected
13 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.

14 Every property inspected pursuant to subdivision (b) of Section 8516.1, or Section
15 8518, or subdivision (b) of this section shall be assessed a filing fee pursuant to Section
8674.

16 Failure of a registered company to report and file with the board the address of any
17 property inspected or work completed pursuant to Section 8516.1, Section 8518, or this
18 section are grounds for disciplinary action and shall subject the registered company to a fine
of not more than two thousand five hundred dollars (\$2,500).

19 A written inspection report conforming to this section and on a form approved by the
20 board shall be prepared and delivered to the person requesting the inspection or to the
21 person's designated agent within 10 business days of the inspection, except that an
22 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,
23 filed notes, and activity forms.

24 Reports shall be made available for inspection and reproduction to the executive
25 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:

26 (6) A foundation diagram or sketch of the structure or structures or portions of the
27 structure or structures inspected, indicating thereon the approximate location of any infested
28 or infested areas evident, and the parts of the structure where conditions that would
ordinarily subject those parts to attack by wood destroying pests or organisms exist.

1 (7) Information regarding the substructure, foundation walls and footings, porches,
2 patios and steps, air vents, abutments, attic spaces, roof framing that includes the eaves,
3 rafters, fascias, exposed timbers, exposed sheathing, ceiling joists, and attic walls, or other
4 parts subject to attack by wood destroying pests or organisms. Conditions usually deemed
5 likely to lead to infestation or infection, such as earth-wood contacts, excessive cellulose
6 debris, faulty grade levels, excessive moisture conditions, evidence of roof leaks, and
7 insufficient ventilation are to be reported.

8 (9) Indication or description of any areas that are inaccessible or not inspected with
9 recommendation for further inspection if practicable. If, after the report has been made in
10 compliance with this section, authority is given later to open inaccessible areas, a
11 supplemental report on conditions in these areas shall be made.

12 (10) Recommendations for corrective measures.

13 14. Code section 8514 states, in pertinent part, that no registered company shall
14 commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or
15 statement relating to the control of household pests, or wood destroying pests or organisms until
16 an inspection has been made.

17 15. Code section 8519 states, in pertinent part:

18 Certification as used in this section means a written statement by the registered
19 company attesting to the statement contained therein relating to the absence or presence of
20 wood-destroying pests or organisms and, listing such recommendations, if any, which
21 appear on an inspection report prepared pursuant to Section 8516, and which relate to (1)
22 infestation or infection of wood-destroying pests or organisms found, or (2) repair of
23 structurally weakened members caused by such infestation or infection, and which
24 recommendations have not been completed at the time of certification.

25 Any registered company which makes an inspection report pursuant to Section 8516,
26 shall, if requested by the person ordering the inspection report, prepare and deliver to that
27 person or his or her designated agent, a certification, to provide:

28 (c) When the inspection report prepared pursuant to Section 8516 discloses
infestation or infection and the notice of work completed prepared pursuant to Section 8518
indicates that the registered company has not completed all recommendations to remove
that infestation or infection or to repair damage caused by it: "This is to certify that the
property described herein is now free of evidence of active infestation or infection in the
visible and accessible areas except as follows: (describing infestations, infections, damage
or evidence thereof, excepted)."

This certificate shall be accompanied by a copy of the inspection report prepared
pursuant to Section 8516, and by a copy of the notice of work completed prepared pursuant
to Section 8518, if any notice has been prepared at the time of the certification, or the

1 certification may be endorsed on and made a part of that inspection report or notice of work
2 completed.

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7 16. Code section 8525 states:

8 The board, subject to the approval of the director, may, in accordance with Chapter
9 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government
10 Code, adopt, amend, repeal, and enforce reasonably necessary rules and regulations relating
11 to the practice of pest control and its various branches as established by Section 8560 and
12 the administration of this chapter.

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17 17. Code section 8550 subpart (a) states:

18 It is unlawful for any individual to engage or offer to engage in the business or
19 practice of structural pest control, as defined in Section 8505, unless he or she is licensed under
20 this chapter.

21
22
23 18. Code section 8571 states:

24 If the licensed operator who is designated as the qualifying manager for a registered
25 company ceases for any reason whatsoever to be connected with the company, the company shall
26 notify the registrar in writing within 10 days from such cessation. If the notice is given the
27 registration shall remain in force for a reasonable length of time, to be determined by rules of the
28 board, during which period the company must submit to the registrar in writing the name of
another qualified, or to be qualified, qualifying manager to replace the qualifying manager who
has ceased to be connected with it, and who shall qualify as such within the time allowed by rules
and regulations of the board.

If the company fails to notify the registrar within the 10-day period, or fails to replace
with a qualifying manager within the period fixed by the regulations of the board, at the end of
the period the registration shall be ipso facto suspended. The registration shall be reinstated upon
the filing of an affidavit, executed by a representative of the company, and filed with the registrar,
to the effect that the qualifying manager who ceased to be connected with the company has been
replaced by another operator who is authorized by this chapter to act in such capacity, and that
such operator has not had his or her license suspended or revoked or that he or she has not been
connected with a company which has had its registration suspended or revoked.

22
23 19. Code section 8590 states:

24 Except as otherwise provided herein, all operator's and field representative's licenses shall
25 expire at 12 midnight on June 30 of every third year and all applicator's licenses shall expire
26 at 12 midnight three years from the date of issue.

27 An individual licensed in more than one category may request that each license expire
28 on the same date. The date requested shall be the date of the earliest expiration.

1 Every operator and every field representative shall pay a fee for the renewal of his or
2 her license.

3 The board shall on or before the first day of June of each year mail to each operator
4 and field representative whose license will expire in that year, addressed to him or her at his
5 or her last known address, a notice that his or her renewal fee is due and payable and that, if
6 not paid by June 30, a penalty will be added thereto.

7 In no case shall the penalty be waived.

8 Upon the receipt of the fee the board shall cause the renewal certificate to be issued.

9 20. Code section 8591 states:

10 If delinquency in the payment of the fee for renewal of any license extends beyond three
11 months, the license shall not be reinstated and the licensee shall be required to obtain a new
12 license in accordance with the provisions of Article 4 (commencing with Section 8560).

13 21. Code section 8622 states:

14 When a complaint is accepted for investigation of a registered company, the board,
15 through an authorized representative, may inspect any or all properties on which a report
16 has been issued pursuant to Section 8516 or a notice of completion has been issued
17 pursuant to Section 8518 by the registered company to determine compliance with the
18 provisions of this chapter and the rules and regulations issued thereunder. If the board
19 determines the property or properties are not in compliance, a notice shall be sent to the
20 registered company so stating. The registered company shall have 30 days from the receipt
21 of the notice to bring such property into compliance, and it shall submit a new original
22 report or completion notice or both and an inspection fee of not more than one hundred
23 twenty-five dollars (\$125) for each property inspected. If a subsequent reinspection is
24 necessary, pursuant to the board's review of the new original report or notice or both, a
25 commensurate reinspection fee shall also be charged. If the board's authorized
26 representative makes no determination or determines the property is in compliance, no
27 inspection fee shall be charged.

28 The notice sent to the registered company shall inform the registered company that
if it desires a hearing to contest the finding of noncompliance, the hearing shall be
requested by written notice to the board within 20 days of receipt of the notice of
noncompliance from the board. Where a hearing is not requested pursuant to this section,
payment of any assessment shall not constitute an admission of any noncompliance
charged.

1 22. Code section 8638 states:

2 Failure on the part of a registered company to complete any operation or construction
3 repairs for the price stated in the contract for such operation or construction repairs or in
4 any modification of such contract is a ground for disciplinary action.

5 23. Code section 8641 states:

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

11 24. Code section 8642 states:

12 The commission of any grossly negligent or fraudulent act by the licensee as a pest
13 control operator, field representative, or applicator or by a registered company is a ground
14 for disciplinary action.

15 **REGULATORY PROVISIONS**

16 25. California Code of Regulations, title 16, section 1916 states:

17 A registered company which notifies the board of the disassociation of its qualifying
18 manager or branch supervisor within the ten day period prescribed by Section 8571 of the code,
19 shall be granted a period of thirty (30) days in which to replace such person with another
20 qualifying manager or branch supervisor. An additional thirty (30) day extension can be granted
21 by the registrar for good cause.

22 26. California Code of Regulations, title 16, section 1920 subsection (d), states, in
23 pertinent part:

24 Compliance with Orders of Abatement: When a citation is not contested or if the
25 citation is appealed and the person cited does not prevail, failure to comply with the order of
26 abatement or to pay the fine in the citation within the time allowed by a licensee may result in
27 disciplinary action being taken by the Board against the person cited, or where the cited person is
28 unlicensed in appropriate judicial relief being taken against the person cited.

29 27. California Code of Regulations, title 16, section 1990, states, in pertinent
30 part:

(a) All reports shall be completed as prescribed by the board. Copies filed with the board
shall be clear and legible. All reports must supply the information required by Section 8516 of the

1 Code and the information regarding the pesticide or pesticides used as set forth in Section 8538 of
the Code, and shall contain or describe the following:

2 (3) Infestations, infections or evidence thereof.

3 (4) Wood members found to be damaged by wood destroying pests or organisms.

4 (b) Conditions usually deemed likely to lead to infestation or infection include, but are not
5 limited to:

6 (1) Faulty Grade Level. A faulty grade level exists when the top of any foundation is even
7 with or below the adjacent earth. The existing earth level shall be considered grade.

8 (2) Inaccessible subareas or portions thereof and areas where there is less than 12 inches
9 clear space between the bottom of the floor joists and the unimproved ground area.

10 (4) Earth-wood contacts.

11 28. California Code of Regulations, title 16, section 1991, states, in pertinent
12 part:

13 (a) Recommendations for corrective measures for the conditions found shall be made
14 as required by paragraph 10 of subdivision (b) of Section 8516 of the code and shall also
15 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:

16 (3) When evidence of moisture, infestations or infections exists as a result of faulty
17 grade levels, earth fill planters or loose stucco, a recommendation shall be made to correct
18 the condition. Any method of controlling infestations arising from these conditions is
considered adequate if the infestation is controlled.

19 (4) Comply with the provisions of section 2516(c)(6.1) of Title 24 of the California
20 Code of Regulations (Effective July 1992).

21 (5) Structural members which appear to be structurally weakened by wood-destroying
22 pests to the point where they no longer serve their intended purpose shall be replaced or
23 reinforced. Structural members which are structurally weakened by fungus to the point
24 where they no longer serve their intended purpose shall be removed or, if feasible, may
25 remain in place if another structural member is installed adjacent to it to perform the same
26 function, if both members are dry (below 20% moisture content), and if the excessive
moisture condition responsible for the fungus damage is corrected. Structural members
27 which appear to have only surface fungus damage may be chemically treated and/or left as
28 is if, in the opinion of the inspector, the structural member will continue to perform its
originally intended function and if correcting the excessive moisture condition will stop the
further expansion of the fungus.

(6) Comply with the provisions of section 2516(c)(6) of Title 24 of the California
Code of Regulations.

1 (8) Exterminate all reported wood-destroying pests. Such extermination shall not be
2 considered repair under section 8516(b)(12) of the code. If evidence indicates that wood-
3 destroying pests extend into an inaccessible area(s), recommendation shall be made to
4 either:

5 (A) enclose the structure for an all encompassing treatment utilizing materials listed
6 in Section 8505.1 of the code, or

7 (B) use another all encompassing method of treatment which exterminates the
8 infestation of the structure, or

9 (C) locally treat by any or all of the following:

10 1. exposing the infested area(s) for local treatment,

11 2. removing the infested wood,

12 3. using another method of treatment which exterminates the infestation. (If any
13 recommendation is made for local treatment, the report must contain the following
14 statement: "Local treatment is not intended to be an entire structure treatment method. If
15 infestations of wood-destroying pests extend or exist beyond the area(s) of local treatment,
16 they may not be exterminated.")

17 When a complete inspection is performed, a recommendation shall be made to
18 remove or cover all accessible pellets and frass of wood-destroying pests.

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

25 (11) Correct any excessive moisture condition that is commonly controllable. When
26 there is reasonable evidence to believe a fungus infection exists in a concealed wall or area,
27 recommendations shall be made to open the wall or area.

28 29. Regulations, Title 16, section 1996.3, states:

(a) The address of each property inspected and/or upon which work was
completed shall be reported on a form prescribed by the Board and designated as the
WDO Inspection and Completion Activity Report Form (see Form No. 43M-52 Rev.
5/03) at the end of this section. This form shall be prepared by each registered
company and shall comply with all of the requirements pursuant to Section 8516(b),
and 8518.

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

(1) Company Name

(2) Company registration number

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

2 (4) Date of Activity

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

5 (6) Activity Code

6 (7) License number of licensee performing the inspection

7 (c) Failure of a registered company to report and file with the Board the
8 address of any property inspected or upon which work was completed pursuant to
9 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).

9 COST RECOVERY/RESTITUTION

10 30. Code section 125.3 provides, in pertinent part, that the Board may request the
11 administrative law judge to direct a licentiate found to have committed a violation or violations of
12 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
13 enforcement of the case.

14 31. Government Code section 11519(d) provides, in pertinent part, that the Board may
15 require restitution of damages suffered as a condition of probation in the event probation is
16 ordered.

17 MORRIS PROPERTY

18 32. On or about March 3, 2009, at the request of Mark Morris ("Morris"), Respondent
19 Platinum performed a wood destroying pests and organisms inspection ("WDO") and issued a
20 complete separated WDO inspection report on the property located at 3056 Motor Avenue, in Los
21 Angeles ("Morris property"). Respondent Ruiz performed the WDO inspection and prepared the
22 inspection report containing five findings and recommendations. The Section I findings identified
23 evidence of subterranean and drywood termites, and termite damaged wood members in the
24 substructure; termite damaged wood members at the deck and evidence of drywood termites at
25 the interior of the structure. The Section I recommendations stated to chemically treat the
26 subterranean and drywood termites, to remove or cover the evidence of infestation and to replace
27 the termite damage wood members. There were no Section II or Further Inspection findings or
28

1 recommendations. The inspection report failed to contain any property owner/party of interest
2 information and failed to contain any information in the Other Tags Posted box.

3 33. On or about March 18, 2009, Respondent Platinum issued a Standard Notice of Work
4 Completed and Not Completed ("completion notice") on the incident address. The completion
5 notice certified that all recommendations made by Respondent Ruiz on his March 3, 2009
6 complete, separated inspection report had been completed. On or about December 9, 2009, at the
7 request of Mr. Morris, Respondent Platinum performed a WDO inspection and issued a complete,
8 separated inspection report on the Morris property. Respondent Ruiz performed the WDO
9 inspection and prepared an inspection report containing a Section I finding of evidence of
10 drywood termites at the interior of the structure. The Section I recommendation stated to
11 chemically treat visible and accessible infestations and to remove or cover accessible pellets. The
12 inspection report failed to contain any property owner/party of interest information.

13 34. On or about December 11, 2009, Respondent Platinum issued a completion notice on
14 the Morris property. The completion notice certified that the recommendation made by
15 Respondent Ruiz on his December 9, 2009 report had been completed. On or about November 26,
16 2010, at the request of Mr. Morris, Respondent Platinum performed a WDO inspection and issued
17 an inspection report on the Morris property. Respondent Ruiz performed the WDO inspection and
18 documented finding evidence of drywood termites on the interior of the structure. The Section I
19 recommendation stated to fumigate the structure for drywood termites and to remove or cover the
20 evidence of infestation. There were no Section II or Further inspection findings or
21 recommendations. The inspection report failed to contain any property owner/party of interest
22 information. On or about November 30, 2010, Respondent Platinum issued a completion notice
23 on the Morris property. The completion notice certified that the recommendation made by
24 Respondent Ruiz on his November 26, 2010 report had been completed. In fact, the fumigation
25 on the Morris property had been completed by Respondent Allstar. Further, the completion notice
26 failed to contain a proper certification statement.

27 35. On or about June 22, 2011, Mr. Morris filed a complaint with the Board, alleging that
28 Respondent Allstar failed to exterminate the termites after Respondent Platinum hired it to

1 fumigate the Morris property. On or about October 10, 2011, Board inspector Steven R. Smith
2 (“Smith”) inspected the Morris property and found evidence of drywood termites on top of the
3 kitchen cabinets falling from a ceiling beam, evidence of drywood termites in a kitchen cabinet,
4 evidence of drywood termites in a ceiling beam inside of the kitchen utility closet, evidence of
5 drywood termites on the kitchen doorsill, falling out the door, evidence of drywood termites in a
6 bathroom cabinet, and evidence of drywood termite swarmers in an office window.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Failure to Complete Fumigation)**

9 36. Respondent Platinum and Respondent Tribble are subject to discipline under Code
10 section 8641, in that on or about November 2010, concerning the Morris property, Respondents
11 failed to comply with Code section 8638 in that Respondents failed to complete the fumigation
12 contracted to Allstar Fumigation, Inc. as further set forth in paragraphs 26-29 which are
13 incorporated hereto as though fully set forth herein.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Failure to Name Property Owner on Inspection Report)**

16 37. Respondents Platinum Exterminators and Tribble are subject to disciplinary action
17 under Section 8516, subdivision (b) (3) in that Respondents’ reports on the Morris property dated
18 March 3, 2009, December 9, 2009, and November 26, 2010, failed to contain any property
19 owner/party of interest information as further set forth in paragraphs 26-29 which are
20 incorporated hereto as though fully set forth herein.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Incorrect License Number on Inspection Report)**

23 38. Respondents Platinum Exterminators and Tribble are subject to discipline under
24 Section 8641, in that Respondents failed to comply with California Code of Regulations, title 16,
25 section 1990 subsection (a)(1) in that Respondents failed to issue an inspection report that
26 contained the correct license number of the person making the inspection. The November 26,
27 2010 inspection report contains the license number for Respondent Ruiz, i.e. FR 43098 which
28

1 was cancelled on June 30, 2010. Respondent Ruiz was issued license number FR 45946 on
2 September 23, 2010.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Failure to Contain Proper Certification Statement)**

5 39. Respondents Platinum Exterminators and Tribble are subject to discipline under
6 Section 8641, in that Respondents failed to comply with Section 8519 subsection (b) of the Code
7 in that Respondents inspection report dated November 30, 2010, fails to contain a proper
8 certification statement as further set forth in paragraphs 26-29 which are incorporated hereto as
9 though fully set forth herein.

10 **FIFTH CAUSE FOR DISCIPLINE**

11 **(Failure to File and/or Timely File WDO Activities)**

12 40. Respondents Platinum Exterminators and Tribble are subject to disciplinary action
13 under Section 8516, subdivision (b) and subdivision (a) of Section 1996.3 of title 16 of the
14 California Code of Regulations, in that Respondents failed to file WDO¹ activities reports with
15 the Board, within 10 business days after commencement of inspection or upon completed work.
16 The results of a WDO Activity Search by the Board disclosed that Respondents failed to file with
17 the Board their November 26, 2010 inspection report and November 30, 2010 completion notice.
18 In addition, Respondents March 18, 2009 completion notice was filed with the Board as having
19 been issued on March 4, 2009. Complainant hereby incorporates paragraphs 26-29 which are
20 incorporated hereto as though fully set forth herein.

21 **SIXTH CAUSE FOR DISCIPLINE**

22 **(Failure to File and/or Timely File WDO Activities)**

23 41. Respondent Ruiz is subject to disciplinary action under Code Section 8516, and
24 Section 1996.1 subsection (c) of title 16 of the California Code of Regulations, in that Respondent
25 Ruiz failed to include Other Tags Posted Information on the March 3, 2009 inspection report.
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27 ¹ The abbreviation "WDO" stands for the Wood Destroying Organism Inspection and
28 Completion Activity Report Form (see Form No. 43M-52 Rev. 5/03).

1 Complainant hereby incorporates paragraphs 26-29 which are incorporated hereto as though fully
2 set forth herein.

3 **SEVENTH CAUSE FOR DISCIPLINE**

4 **(Failure to Complete Work)**

5 42. Respondents Allstar and Chavez are subject to disciplinary action under Code Section
6 8638, in that Respondents failed to complete the work on the Morris property in November 2010.
7 Moreover, active drywood termites were found after the completion of the fumigation.

8 Complainant hereby incorporates paragraphs 26-29 which are incorporated hereto as though fully
9 set forth herein.

10 **EIGHTH CAUSE FOR DISCIPLINE**

11 **(Failure to Notify Board of Change of Address and/or**
12 **Change of Location of Principle Office)**

13 43. Respondents Country Wide and Chavez are subject to disciplinary action under Code
14 Section 8613, and Section 1911 of title 16 of the California Code of Regulations in that
15 Respondents failed to notify the Board in writing of a change in the location of Country Wide's
16 principal office within thirty (30) days of the change. Moreover, Respondent Chavez failed to
17 notify the Board of a change in address within ten (10) days of the change. Complainant hereby
18 incorporates paragraphs 26-29 which are incorporated hereto as though fully set forth herein.

19 **NINTH CAUSE FOR DISCIPLINE**

20 **(Performing WDO Inspections With**
21 **An Expired/Delinquent License)**

22 44. Respondents Platinum, Tribble and Ruiz are subject to disciplinary action under Code
23 Sections 8590 and 8591 in that Respondent Platinum performed WDO inspections on or about
24 August 30, 2010 and September 1, 2010, with a license, FR 43098, that expired on or about June
25 30, 2010, and was cancelled on or about September 2, 2010.

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TENTH CAUSE FOR DISCIPLINE

(Performing WDO Inspections While Unlicensed)

45. Respondents Platinum, Tribble and Ruiz are subject to disciplinary action under Code Section 8550 subpart (a) in that Respondent Platinum performed WDO inspections on or about September 3, 7, 10, 14, and 16, 2010 with a license, FR 43098, that was cancelled on or about September 2, 2010.

ELEVENTH CAUSE FOR DISCIPLINE

(Filing WDO Activities With Incorrect Information)

46. Respondents Platinum Exterminators, Tribble, and Ruiz are subject to disciplinary action under Section 8516, subdivision (b) and subdivision (a) of Section 1996.3 of title 16 of the California Code of Regulations, in that Respondents filed approximately 170 WDO activities with the Board with the incorrect license number, FR 43098, of the licensee performing the WDO inspection.

TWELFTH CAUSE FOR DISCIPLINE

(Failure to File WDO Activities with the Board)

47. Respondents Platinum Exterminators, Tribble, and Ruiz are subject to disciplinary action under Section 8516, subdivision (b) and subdivision (a) of Section 1996.3 of title 16 of the California Code of Regulations, in that Respondents failed to file an inspection report dated November 26, 2010 with the Board. Further, Respondents failed to file approximately 900 WDO activities performed between September 12, 2006 and April 5, 2007.

THIRTEENTH CAUSE FOR DISCIPLINE

(Failure to Notify Board in Writing Within

Ten Days of Disassociation of Qualifying Manager)

48. Respondents Platinum Exterminators, Tribble, and Ruiz are subject to disciplinary action under Section 8571 and Section 1916 of title 16 of the California Code of Regulations, in that Respondents failed to notify the Board in writing, within ten days, of the disassociation of its Qualifying Manager on April 2, 2009.

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1 **FOURTEENTH CAUSE FOR DISCIPLINE**

2 (Failure to Notify Board in Writing Within

3 Ten Days of Disassociation of Qualifying Manager)

4 49. Respondents Platinum Exterminators and Ruiz are subject to disciplinary action under
5 Section 8506.2 and Sections 1916 and 1996.3 subpart (b) of title 16 of the California Code of
6 Regulations, in that Respondents engaged in the practice of structural pest control without a
7 qualifying manager in that Respondents filed five WDO activities with the Board for activities
8 between August 11, 2011, and August 22, 2011 when Respondent Platinum had no qualifying
9 manager.

10 **FIFTEENTH CAUSE FOR DISCIPLINE**

11 (Grossly Negligent or Fraudulent Act(s))

12 50. Respondents Platinum Exterminators and Ruiz are subject to disciplinary action under
13 Section 8642, in that Respondents changed the license number on WDO inspection reports dated
14 March 18, 2009, July 6, 2009, August 30, 2010, September 1, 2010, and November 26, 2010
15 from his previous Field Representative's license, FR 43098, to his current Operator's license,
16 OPR 12259. Respondent Ruiz Operator's license, OPR 12259, was not even issued until August
17 23, 2011. In addition, the inspection report the Board received for the property located at 16509
18 Knollwood Drive, Granada Hills, Ca. is dated August 25, 2011, yet the report was filed with the
19 Board as having been performed on September 10, 2010.

20 **DISCIPLINARY CONSIDERATIONS**

21 **Company Registration No. PR 5127**

22 51. On or about January 31, 2008, a fine in the amount of \$250 was levied against the
23 registration by the Los Angeles County Agricultural Commissioner for violating California Code
24 of Regulations, title 16, section 6724.

25 52. On or about September 10, 2008, a fine in the amount of \$1800 was levied against the
26 registration by the Board for violating section 8640 of the Business and Professions Code.

27 **Operator License No. OPR 7711**

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1 53. On or about September 10, 2008, a fine in the amount of \$1800 was levied against the
2 Operator license by the Board for violating section 8640 of the Business and Professions Code.

3 **Company Registration No. PR 5704**

4 54. On or about May 3, 2010, a fine in the amount of \$2500 was levied against the
5 registration by the Board for violating section 8652 of the Business and Professions Code. The
6 remaining balance due is \$1500.00.

7 55. On or about September 12, 2010, a fine in the amount of \$500 was levied against the
8 registration by the Los Angeles County Agricultural Commissioner for violating section 1970.4
9 of the California Code of Regulations and section 8505.10 of the Business and Professions Code.

10 56. On or about May 23, 2011, a fine in the amount of \$1200 was levied against the
11 registration by the Los Angeles County Agricultural Commissioner for violating section 8698.1
12 of the Business and Professions Code and section 15204 of the Food and Agriculture Code. The
13 fine has not been paid.

14 57. On or about May 23, 2011, a fine in the amount of \$400 was levied against the
15 registration by the Los Angeles County Agricultural Commissioner for violating section 15204 of
16 the Food and Agriculture Code. The fine has not been paid.

17 58. On or about May 23, 2011, a fine in the amount of \$400 was levied against the
18 registration by the Los Angeles County Agricultural Commissioner for violating section 15204 of
19 the Food and Agriculture Code. The fine has not been paid.

20 59. On or about May 23, 2011, a fine in the amount of \$1900 was levied against the
21 registration by the Los Angeles County Agricultural Commissioner for violating section 6600(b)
22 of the California Code of Regulations and section 15204 of the Food and Agriculture Code. The
23 fine has not been paid.

24 **Operator License No. OPR 11254**

25 60. On or about April 17, 2009, a fine in the amount of \$400 was levied against the
26 Operator license by the Los Angeles County Agricultural Commissioner for violating section
27 6600(b) of the California Code of Regulations.

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1 61. On or about May 23, 2010, a fine in the amount of \$400 was levied against the
2 Operator license by the Los Angeles County Agricultural Commissioner for violating section
3 15204 of the Food and Agriculture Code. The fine has not been paid.

4 62. On or about November 10, 2011, a fine in the amount of \$400 was levied against the
5 Operator license by the Los Angeles County Agricultural Commissioner for violating section
6 15204 of the Food and Agriculture Code.

7 63. On or about November 10, 2011, a fine in the amount of \$250 was levied against the
8 Operator license by the Los Angeles County Agricultural Commissioner for violating section
9 6780 of the California Code of Regulations.

10 64. On or about November 10, 2011, a fine in the amount of \$250 was levied against the
11 Operator license by the Los Angeles County Agricultural Commissioner for violating section
12 6780 of the California Code of Regulations.

13 65. On or about November 21, 2011, a fine in the amount of \$300 was levied against the
14 Operator license by the Los Angeles County Agricultural Commissioner for violating section
15 6780 of the California Code of Regulations and section 8505.10 of the Business and Professions
16 Code.

17 **Company Registration No. PR 6285**

18 66. On or about November 10, 2011, a fine in the amount of \$400 was levied against the
19 registration by the Los Angeles County Agricultural Commissioner for violating section 15204 of
20 the Food and Agriculture Code.

21 67. On or about November 10, 2011, a fine in the amount of \$250 was levied against the
22 registration by the Los Angeles County Agricultural Commissioner for violating section 6780 of
23 the California Code of Regulations.

24 68. On or about November 10, 2011, a fine in the amount of \$250 was levied against the
25 registration by the Los Angeles County Agricultural Commissioner for violating section 6780 of
26 the California Code of Regulations.

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1 **Field Representative License No. FR 40682**

2 69. On or about May 3, 2010, a fine in the amount of \$2500 was levied against the Field
3 Representative license by the Board for violating section 8692 of the Business and Professions
4 Code. The remaining balance due is \$1500.00.

5 70. On or about August 12, 2010, a fine in the amount of \$500 was levied against the
6 Field Representative license by the Los Angeles County Agricultural Commissioner for violating
7 section 1970.4 of the California Code of Regulations and section 8505.10 of the Business and
8 Professions Code.

9 71. On or about August 15, 2011, a fine in the amount of \$250 was levied against the
10 Field Representative license by the Los Angeles County Agricultural Commissioner for violating
11 section 6600 of the California Code of Regulations. The fine has not been paid.

12 72. On or about December 7, 2011 a fine in the amount of \$250 was levied against the
13 Field Representative license by the Los Angeles County Agricultural Commissioner for violating
14 section 6600 of the California Code of Regulations. The fine has not been paid.

15 **OTHER MATTERS**

16 73. Notice is hereby given that section 8620 of the Code provides, in pertinent part, that a
17 respondent may request that a civil penalty of not more than \$5,000 be assessed in lieu of an
18 actual suspension of 1 to 19 days, or not more than \$10,000 for an actual suspension of 20 to 45
19 days. Such request must be made at the time of the hearing and must be noted in the proposed
20 decision. The proposed decision shall not provide that a civil penalty shall be imposed in lieu of a
21 suspension.

22 74. Pursuant to Code section 8624, the causes for discipline established as to Company
23 Registration Certificate Number PR 5127, issued to Platinum Exterminators, likewise constitute
24 cause for discipline against Operator's License Number OPR 7711, issued to Leah Ann Tribble,
25 who serves as the Qualifying Manager of Platinum Exterminators, regardless of whether Leah
26 Ann Tribble had knowledge of or participated in the acts or omissions which constitute cause for
27 discipline against Platinum Exterminators.

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1 75. Pursuant to Code section 8654, if discipline is imposed on Company Registration
2 Certificate Number PR 5127, issued to Platinum Exterminators, then Leah Ann Tribble, who
3 serves as the Qualifying Manager of Platinum Exterminators, shall be prohibited from serving as
4 an officer, director, associate, partner, qualifying manager, or responsible managing employee for
5 any registered company during the time the discipline is imposed, and any registered company
6 which employs, elects, or associates her, shall be subject to disciplinary action.

7 76. Pursuant to Code section 8624, the causes for discipline established as to Company
8 Registration Certificate Number PR 5704, issued to Allstar Fumigation, Inc., likewise constitute
9 cause for discipline against Operator's License Number OPR 11254, issued to Jaime Chavez, who
10 serves as the Qualifying Manager of Allstar Fumigation, Inc., regardless of whether Jaime
11 Chavez had knowledge of or participated in the acts or omissions which constitute cause for
12 discipline against Allstar Fumigation, Inc.

13 77. Pursuant to Code section 8654, if discipline is imposed on Company Registration
14 Certificate Number PR 5704, issued to Allstar Fumigation, Inc., then Jaime Chavez, who serves
15 as the Qualifying Manager of Allstar Fumigation, Inc., shall be prohibited from serving as an
16 officer, director, associate, partner, qualifying manager, or responsible managing employee for
17 any registered company during the time the discipline is imposed, and any registered company
18 which employs, elects, or associates him, shall be subject to disciplinary action.

19 78. Pursuant to Code section 8624, the causes for discipline established as to Company
20 Registration Certificate Number PR 6285, issued to Country Wide Fumigation, likewise
21 constitute cause for discipline against Operator's License Number OPR 11254, issued to Jaime
22 Chavez, who serves as the Qualifying Manager of Country Wide Fumigation, regardless of
23 whether Jaime Chavez had knowledge of or participated in the acts or omissions which constitute
24 cause for discipline against Country Wide Fumigation.

25 79. Pursuant to Code section 8654, if discipline is imposed on Company Registration
26 Certificate Number PR 6285, issued to Country Wide Fumigation, then Jaime Chavez, who
27 serves as the Qualifying Manager of Country Wide Fumigation, shall be prohibited from serving
28 as an officer, director, associate, partner, qualifying manager, or responsible managing employee

1 for any registered company during the time the discipline is imposed, and any registered company
2 which employs, elects, or associates him, shall be subject to disciplinary action.

3 **PRAYER**

4 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Structural Pest Control Board issue a decision:

- 6 1. Revoking or suspending Company Registration Certificate Number PR 5127, issued to
7 Platinum Exterminators;
- 8 2. Revoking or suspending Company Registration Certificate Number PR 5704, issued to
9 Allstar Fumigation, Incorporated;
- 10 3. Revoking or suspending Company Registration Certificate Number PR 6285, issued to
11 Country Wide Fumigation;
- 12 4. Revoking or suspending Operator's License Number OPR 7711, issued to Leah Ann
13 Tribble;
- 14 5. Revoking or suspending any other license for which Leah Ann Tribble is furnishing
15 the qualifying experience or appearance;
- 16 6. Revoking or suspending Operator's License Number OPR 12259, issued to Jose
17 Antonio Ruiz;
- 18 7. Revoking or suspending any other license for which Jose Antonio Ruiz is furnishing
19 the qualifying experience or appearance;
- 20 8. Revoking or suspending Field Representative License Number FR 45946, issued to
21 Jose Antonio Ruiz;
- 22 9. Ordering restitution of all damages according to proof suffered by Mark Morris as a
23 condition of probation in the event probation is ordered;
- 24 10. Prohibiting Leah Ann Tribble and/or Jose Antonio Ruiz from serving as an officer,
25 director, associate, partner, qualifying manager or responsible managing employee of any
26 registered company during the period that discipline is imposed on Company Registration
27 Certificate Number PR 5127, issued to Platinum Exterminators;

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11. Ordering Leah Ann Tribble, Platinum Exterminators and Jose Antonio Ruiz 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,

12. Taking such other and further action as deemed necessary and proper.

DATED: 6/7/12

William H. Douglas
William H. Douglas
Interim Executive Officer/ Registrar
Structural Pest Control Board
Department of Pesticide Regulation
State of California
Complainant