

**NOTICE OF COMMISSION MEETING
FRIDAY, April 11, 2003
9:00 A.M.
Structural Pest Control Commission
9535 E. Doubletree Ranch Road
Scottsdale, AZ 85258**

Please quiet your cellular telephones and pagers. Do not hold telephone or other conversations in the hallway outside of the Commission room, as voices carry.

Pursuant to A.R.S. § 38-431.02, notice is given to the members of the Structural Pest Control Commission and to the General Public that the Structural Pest Control Commission will hold a meeting open to the public, as indicated in the following agenda.

Pursuant to A.R.S. § 38-431.03(A)(3), the Commission may vote to go into executive session to obtain legal advice for matters on the agenda. Pursuant to A.R.S. § 38-431.03(A)(2), the Commission may vote to go into executive session to discuss records exempt from public inspection. Pursuant to A.R.S. § 38-431.03(A)(1), the Commission may vote to go into executive session to discuss personnel matters. The executive session will not be open to the public. All items under discussion or for consideration are subject to possible decision and vote by the Commission.

AGENDA

- I. Call to order and roll call (Chairperson, Ms. Vazquez)**
- II. Approval of March 14, 2003 (regular session) Minutes TAB 1**
- III. Call to the public (Each speaker limited to five minutes). This is the time for the public to comment. Members of the Commission may not discuss items that are not on the agenda. Therefore, action taken as a result of public comment are limited to directing staff to study the matter or scheduling the matter for further consideration and decision at a later date.**

- IV. Correspondence with Commissioners
- V. Scheduling of future meetings/agenda items (Ms. Gervase)

Proposed dates and locations

May 9 , 2003 Scottsdale, AZ
 June 13, 2003.....Scottsdale, AZ
 July 11, 2003 Scottsdale, AZ

VI. Consent Agenda.

Items will be read and voted on in one group excluding those pulled for discussion. Any matter on the Consent Agenda will be removed from the Consent Agenda and discussed as a regular agenda item upon the request of any Commission member.

A. Applications for New Business License (Mr. Francis)

- 1. Cale, Scott R. dba Nitro (Activate Qualifying Party for new business license in “B” General Pest) TAB 2
- 2. Clifford, Chris dba Super Pest Control (Activating Qualifying Party for new business license in “B” General Pest and “E” Weed Control) TAB 3
- 3. Coronado, Hector I. dba Neutramite Services (Activating Qualifying Party for new business license status change in “C” Wood Destroying Organisms) TAB 4
- 4. Denny, Timothy O. dba TLC Pest Control (Activating Qualifying Party for new business license in “B” General Pest) TAB 5
- 5. Estabrook, Trent R. dba American Pride Termite & Pest Control (Activating Qualifying Party for new business license in “B” General Pest and “C” Wood Destroying Organisms) TAB 6
- 6. Hamilton, Deborah L. dba Quintero Golf & County Club (Activating Qualifying Party for new business license in “E” Weed Control and “F” Turf &

		Ornamental) TAB 7
7. Matthews, David B.	dba	Solutions Pest Services (Activating Qualifying Party for new business license in “B” General Pest, “C” Wood Destroying Organisms, “D” Fumigation and “E” Weed Control) TAB 8
8. Orozco, Samuel G.	dba	Canoa Ranch Golf Club(Activating Qualifying Party for new business license in “E” Weed Control and “F” Turf & Ornamentals) TAB 9
9. Snyder, Robert Charles	dba	Younger Brothers Pretreat & Homes Services, LLC (Activating Qualifying Party for new business license in “B” General Pest and “C” Wood Destroying Organisms) TAB 10
10. Stewart, William R.	dba	Advocate Pest & Wildlife Specialists (Activating Qualifying Party for new business license in “B” General Pest) TAB 11

B. Applications for Existing Business License (Mr. Francis)

1. Bingham, Joseph Trent	dba	American Dyna-Mite Exterminating (Activating Qualifying Party for existing business license in “B” General Pest) TAB 12
2. Blase, Jeffrey G.	dba	Pro-Tek (Activating Qualifying Party for existing business license in “C” Wood Destroying Organisms) TAB 13
3. Kemp, Dennis L.	dba	Tucson Country Club(Activating Qualifying Party for existing business license in “E” Weed Control and “F” Turf and Ornamental) TAB 14
4. Moody, Mark M.	dba	PK’z Pest & Termite Control (Activating Qualifying Party for existing business license in “E” Weed Control) ... TAB 15

- 5. Slingluff, Jeffrey J. dba No Bugz of Arizona (Activating Qualifying Party for existing business license in “C” Wood Destroying Organisms) .. TAB 16
- 6. Sours, John Gregory dba Sours Pest Control Services (Activating Qualifying Party for existing business license in “B” General Pest) TAB 17

C. Applicants for QP Testing (Mr. Francis)

If applicants do not appear and the Commissioners have questions those applications may be denied or tabled to a future meeting. Any applicant that the Commission approves to sit for an exam is approved subject to a clean background report. If the background report reflects information that was not disclosed on the application, the applicant will not be allowed to sit for an exam and the application will be placed on a future agenda for the Commission’s re-review.

- 1. Bennett, Imogene F. “E-1” (Aquatic Weeds) TAB 18
- 2. Duffin, Robert M. “B” (General Pest) TAB 19
- 3. Espailat Jose R. “E & F” (Weed Control and Turf & Ornamental) TAB 20
- 4. Evans, Sr., William E. “B & C” (General Pest and Wood Destroying Organisms) TAB 21
- 5. Ford, Jeffrey Lynn “B” (General Pest) TAB 22
- 6. Koser, John Tyler “E & F” (Weed Control and Turf & Ornamental) TAB 23
- 7. Mears, Brian J. “B, C & E” (General Pest, Wood Destroying Organisms and Weed Control) TAB 24
- 8. Miller, Lance G. “B & C” (General Pest and Wood Destroying Organisms) TAB 25
- 9. Ramirez, Daniel J. “B” (General Pest) TAB 26
- 10. Rodriguez, Mike Junior “B & C” (General Pest and Wood Destroying Organisms) TAB 27
- 11. Soto, Rene H. “E” (Weed Control) TAB 28

12. Soto, Victor	“E” (Weed Control)	.....	TAB 29
13. Tomlinson, Susan	“B” (General Pest)	.....	TAB 30
14. Whalen, Curtis C.	“B” (General Pest)	.....	TAB 31

D. Applicants for QP Testing Re-review of Applications (Mr. Francis)

If applicants do not appear and the Commissioners have questions those applications may be denied or tabled to a future meeting.

1. Leyva, Martin M.	“E” (Weed Control)	.....	TAB 32
2. O’Brien, Christopher J.	“B” (General Pest)	.....	TAB 33
3. Ramos, Jerry Lee	“E” (Weed Control)	.....	TAB 34

E. Applicants to Broaden QP (Mr. Francis)

1. Hancock, Dennis King	“D” (Fumigation)	TAB 35
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F. Request for Temporary Qualifying Party Certificate and/or Extension (Mr. Francis)

1. Aesch, Harold	dba	Pestube Systems, Inc.	.....	TAB 36
2. Berryhill, Martin E.	dba	Merritt Pest Control	.....	TAB 37
3. Goings, III; John W.	dba	Pride Industries, Inc.	.....	TAB 38
4. Henderson, Jason P.	dba	A Bee & Pest Pro.	.....	TAB 39
5. Kilian, Gloria	dba	Kilian’s Termite & Pest Control	.	TAB 40
6. Leyva, Martin M.	dba	McKeown, Inc.	.....	TAB 41
7. McKenzie, Barbara	dba	Zap Pest Control, Inc.	.....	TAB 42
8. Powell, Tim D.	dba	Schendel Pest Control of AZ, Inc.	.....	TAB 43
9. Stromnes, Jill Marie	dba	Mesa Verde Termite Center, LLC	.....	TAB 44

G. Request for Company Name Change (Mr. Francis)

1. Bio-Chem Services to Prodigy Pest and Termite Control TAB 45

2. Patriot Pest Control to Patriot Pest & Termite Control TAB 46

**H. Continuing Education Committee Minutes..... TAB 47
March 2003 (Mr. Martin)**

I. Treatment Proposals (Mr. Craig)

1. Accutech Termite Services, LLC TAB 48

2. America's Pest Control TAB 49

3. Solutions Pest Services, Inc. TAB 50

J. Request for Final Grade Waivers (Mr. Craig)

1. Contractors Termite & P.C. TAB 51

2. Pestubes Inc. TAB 52

3. SOS Exterminating TAB 53

End of Consent Agenda

VII. Felony Applicants (Mr. Francis)

If applicants do not appear and the Commissioners have questions those applications may be denied or tabled to a future meeting.

1. Bauer, William James TAB 54

2. Kelly, Christopher Gene TAB 55

3. Pena, Camilo U. TAB 56

4. Samaniego, Jr.; Rene' TAB 57

5. White, Jeffrey Lee TAB 58

VIII. Complaints and/or Settlement Conferences (Mr. Craig)

The Commission may discuss, consider and take action on any matter below. The Commission's action may include those set forth in A.R.S. § 32-2321(A), such as an administrative warning, civil penalty of not more than \$1,000.00 per violation, probation requirements, suspension or revocation. This action may be taken pursuant to a Consent Agreement or a matter may be sent to a Formal Hearing. The Commission may dismiss a matter as set forth in A.R.S. § 32-2321(J) or issue an advisory letter pursuant to A.R.S. § 32-2321(N). A matter also may be continued for further investigation.

If the Consent Agreement is not executed by the deadline stated in the Consent Agreement Transmittal letter, the case will be sent to the Office of Administrative Hearings.

1. Bug Snuffers Pest & Termite Control - Case # 2002-144 TAB 59

The Complaint contains allegations that an inaccurate wood infestation report (WIR) was completed during the sale of the property. It was alleged that faulty grades (slope toward the home), excessive moisture (in attic; hole in the roof) and other conditions conducive were not noted on the WIR.

Investigator Brian Kennedy did not find any evidence of faulty grade. The home is completely surrounded by a flat surfaced concrete slab. The areas, which allegedly contained excessive moisture (attic) were corrected by the homeowner, before Mr. Kennedy performed his investigation.

The areas where Mr. Kennedy did note moisture could not be used to substantiate whether or not the evidence was present during the original inspection.

Staff found no evidence to substantiate a violation.

Staff's Recommendation: Dismiss

2. Burns Pest Elimination - Case # 2001-282 TAB 60

On March 26, 2003, 2:45 p.m., a telephone settlement conference was conducted at the office of the Structural Pest Control Commission for a disposition of complaint # 2001-082. In attendance representing the Structural Pest Control Commission was Investigations Supervisor Craig and Investigator Anthony Harback. Applicator Scott Gibbs represented himself.

The Complaint contains allegations of violations resulting from a failure to apply a pesticide in a manner consistent with the product labeling. (The applicator applied pesticide without removing an animal (pet rabbit) from the room being treated, as required by label directions).

The following terms were proposed at the settlement conference:

1. That Certified Applicator Scott Gibbs, **CERT #000990 B VII**, be issued an **Administrative Warning** for violation of A.R.S. 32-2321(B)(2) (Disciplinary action), A.A.C. R4-29-301 (A) (Misuse of any pesticides).

NOTE: Applicator Gibbs agreed to the terms as proposed.

Attorney Scott Richardson (for Burns Pest Elimination) provided detailed training records indicating that Applicator Gibbs received the necessary training to avoid such a violation. Attorney Richardson also provided a written statement from Applicator Gibbs acknowledging the presence of two caged rabbits in the room that was treated. Therefore, joint responsibility does not apply.

3. Timothy Galloway/Baron Pest Control - Case # 2002-046APP TAB 61

On March 13, 2003, 11:36 a.m., a telephone settlement conference was conducted at the SPCC office, for a disposition of complaint # 2002-046APP. In attendance representing the Structural Pest Control Commission were Investigations Supervisor Vince Craig and Investigator Anthony Harback. Applicator Timothy Galloway represented himself.

The Complaint contains allegations of violations resulting from failing to note conditions conducive (top of foundation below earth's grade) when completing a wood infestation report (WIR).

The following terms were discussed at the settlement conference:

1. That the **Business License** for Baron Pest Control, **LIC # C 5137 BC**, be issued an Administrative Warning for violation of ARS 32-2324 (Wood infestation reports), and R4-29-414(A)(B) (WIR's; conditions conducive).
2. That the **Qualifying Party**, Mr. Mark Stern, **QP# 1544 BC**, be issued an Administrative Warning for violation of ARS 32-2324 (Wood infestation reports), and R4-29-414(A)(B) (WIR's; conditions conducive).

NOTE: Attached are the calculation guideline pages for each of the violations listed. Each violation is listed on a separate page.

4. Raul Garcia - Case # 2002-124 TAB 62

On March 6, 2003, 4:47 p.m., a telephone settlement conference was conducted at the office of the Structural Pest Control Commission for a disposition of complaint # 2002-124. In attendance representing the Structural Pest Control Commission were Investigations Supervisor Craig and Legal Assistant Magdalena Vasquez. Mr. Raul Garcia represented

himself.

The Complaint contains allegations of violations resulting from applying pesticide in a manner inconsistent with the label and misuse of a pesticide (dumping 100 gallons of mixed round up into a retention basin).

The following terms were proposed at the settlement conference:

1. That Certified Applicator Raul Garcia, **CERT #990765 E VII**, be issued an **Administrative Warning** for violation of A.R.S. 32-2321(B)(1) (Disciplinary action), A.A.C. R4-29-301 (A) (Misuse of any pesticides).

NOTE: Mr. Garcia agreed to the terms as proposed.

5. Industrial Termite Specialists - Case # 2002-126 TAB 63

On March 6, 2003, 8:45 a.m., a settlement conference was conducted at the office of the Structural Pest Control Commission for a disposition of complaint # 2002-126. In attendance representing the Structural Pest Control Commission were Investigations Supervisor Craig and Investigator Harback. Representing Industrial Termite Specialists was business licensee Mr. Christopher Fanelli and Applicator Robert Bernard.

The Complaint contains allegations of violations resulting from failing to note conditions conducive to a termite infestation (earth to wood contact) and failure to complete an accurate wood infestation report.

The following terms were proposed at the settlement conference:

That Certified Applicator, **Mr. Robert Bernard, CERT #991202**, be issued an **Administrative Warning** for violation of A.R.S. 32-2321(B)(2) (Disciplinary action) and R4-29-414(B)(4) (Wood infestation reports; conditions conducive).

NOTE: Mr. Bernard agreed to the terms as proposed.

During the settlement conference Mr. Fanelli provided Mr. Craig with records indicating the dates and topics he taught Mr. Bernard for the purpose of completing W.I.R.'s. Mr. Bernard provided Mr. Craig with a Witness Statement confirming such training. Therefore, joint responsibility was not applied.

6. Termite Specialists - Case # 2002-109 TAB 64

On March 26, 2003, 3:00 p.m., a telephone settlement conference was conducted at the office of the Structural Pest Control Commission for a disposition of complaint # 2002-109. In attendance representing the Structural Pest Control Commission were Investigations

Supervisor Craig and Investigator Harback. Representing American Termite Specialists was business licensee Mrs. Tamara Painter.

The Complaint contains allegations of violations resulting from a misuse of a pesticide (failure to wear protective equipment during a pretreatment) and contamination (allowing a water hose to protrude into the spray tank).

The following terms were proposed at the settlement conference:

1. That the **Business License** for Termite Specialists, **LIC # 5769** be issued an **Administrative Warning** for violation of ARS 32-2321(B)(2) (Disciplinary action), R4-29-301(A) (Misuse of any pesticide...) and R4-29-304(B) (Protect against contamination) (due to AAC R4-29-104 (Joint Responsibility)).

NOTE: Mrs. Painter agreed to the terms as proposed.

During the settlement conference Mrs. Painter stated that “discussions” were held between herself, her business partner and Mr. Alan Perry, stressing the need to follow label directions. However, because the licensee did not provide evidence of sufficient training, joint responsibility was applied. Mrs. Painter stated that all current training is documented and filed.

Staff has been unable to contact Mr. Alan Perry (qualifying party and applicator for this violation) to hold a settlement conference. Staff recommends that the issues concerning Mr. Perry be sent to office of Administrative Hearings.

7. Tucson Pest Max - Case # 99-143 TAB 65

The Complaint contains allegations that an inaccurate wood infestation report (WIR) was completed.

The original investigation performed in 1999, indicated a failure to note evidence of a previous spot treatment. The qualifying party responded by stating that the home had been newly painted, which prevented the visibility of the drill holes.

The Structural Pest Control Commission Inspector reported that the drill hole patches were painted the same color of the home. A period of six months past from the date the inspection was performed to the date the complaint was filed.

Enforcement staff has reviewed this file. There is no evidence to substantiate that the drill holes were visible during the original inspection.

The business was sold in 11-17-00, the license no longer exists and the qualifying party/applicator has not held a credential since 1997.

Staff's Recommendation: Dismiss

IX. Unlicensed Activity (Mr. Craig)

The Commission may discuss, consider and take action on any matter below. The Commission's action may include those set forth in A.R.S. § 32-2321(A), such as an administrative warning, civil penalty of not more than \$1,000.00 per violation, probation requirements, suspension or revocation. For matters involving unlicensed activity, the Commission may take action as set forth in A.R.S. § 32-2328(B), such as issuing a Cease and Desist Order and/or imposing a civil penalty of at least \$500.00 for the first offense and at least \$750.00 for a subsequent offense, without a Consent Agreement or Formal Hearing.

1. Drought Desert Services - Case # 2003-002 TAB 66

On March 17, 2003, 11:10 a.m., a settlement conference was conducted at the office of the Structural Pest Control Commission for a disposition of complaint # 2003-002. In attendance representing the Structural Pest Control Commission were Investigations Supervisor Craig and Investigator Jason Aanderud. Representing Drought Desert Services, owner Mr. Rodney Drought.

The Complaint contains allegations of violations resulting from performing work of structural pest control without the benefit of a license.

The following terms were proposed at the settlement conference:

1. That a **Civil Penalty** in the amount of **\$500.00** and a **Cease and Desist Order** be issued against **Mr. Rodney Drought dba Drought Desert Services** for violation of A.R.S. 32-2325(1) Unlawful acts and R4-29-208 (Qualifying party required).

NOTE: Mr. Drought declined proposed recommendation.
However, staff recommends the terms be accepted as proposed.

X. For information and discussion, not action: Complaint Status Log (Mr. Craig) TAB 67

XI. For information & discussion, not action: Legislative Update: HB 2341 (Ms. Gervase)

XII. For information and discussion, not action: Status of Commission appointments, SPCC budget (Ms. Gervase)

XIII. For information and discussion, not action: Status of implementing Computer Based Testing "CBT" (Ms. Gervase)

XIV. For information and discussion, not action: Amending questions for Applicator and

Qualifying Party Examinations (Mr. Martin)

XV. For information and discussion, not action: Case Status Report (Ms. Gervase)

XVI. For discussion, consideration and possible decision: Substantive Policy Statement Re: Two inch lettering rule. (Notebook binder pocket item) (Ms. Gervase)

XVII. For discussion, consideration and possible decision: TARF Amnesty proposal (Ms. Gervase)

XVIII. Adjournment