

NOTICE OF COMMISSION MEETING
FRIDAY, July 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 June 13, 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. Communication with Commissioners

V. Scheduling of future meetings/agenda items (Ms. Gervase)

Current Proposed dates and locations

August 8, 2003 Scottsdale, AZ
September 12, 2003Scottsdale, AZ
October 10, 2003Scottsdale, AZ
November 14, 2003Scottsdale, AZ
December 12, 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.

For new business and existing business license applicants, if applicants do not appear and the Commissioners have questions, those applications may be denied or tabled to a future meeting.

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

1. Connolly, Norman Ray dba Connolly Pest Management, Inc. (Activating Qualifying Party for new business license in “B” General Pest and “C” Wood Destroying Organisms) TAB 2
2. Cranston, Laurel J. dba All-The-Scapes (Activating Qualifying Party for new business license in “E” Weed Control) TAB 3
3. DeWitt, Christopher H. dba Mantis Pest Management (Activating Qualifying Party for new business license in “B” General Pest) TAB 4

- 4. Drake, Gary dba MC Pest Control(Activating Qualifying Party for new business license in “B” General Pest) TAB 5
- 5. Ochoa, Michael T. dba Ochoa Landscape, Inc. (Activating Qualifying Party for new business license in “E” Weed Control and “F” Turf & Ornamental) TAB 6
- 6. Truog, David G. dba Bonded Pest Control (Activating Qualifying Party for new business license in “B” General Pest) TAB 7
- 7. Workman, Aaron E. dba WORX Pest Control, Inc. (Activating Qualifying Party for new business license in “B” General Pest) TAB 8

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

- 1. Berryhill, Phillip R. dba Merritt Pest Control (Activating Qualifying Party for existing business license in “B” General Pest, “C” Wood Destroying Organisms and “E” Weed Control) TAB 9
- 2. Goings, III, John W. dba Pride Industries, Inc. (Activating Qualifying Party for existing business license in “E” Weed Control and “F” Turf & Ornamental) TAB 10
- 3. Preece, Thomas J. dba Zip Zap Termite & Pest Control (Activating Qualifying Party for existing business license in “B” General Pest and “C” Wood Destroying Organisms) TAB 11
- 4. Ramirez, Danny James dba Fireman’s Pest Control (Activating Qualifying Party for existing business license in “B” General Pest) TAB 12

For Qualifying Party initial applicants, applicants to broaden, temporary applicants, and renewal applicants, 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.

C. Applicants for QP Testing (Mr. Tolton)

- 1. Ahrend, Gene LeRoy “B” (General Pest) TAB 13
- 2. Altamirano, Jr., Rodolfo “F” (Turf & Ornamental) TAB 14
- 3. Brower, Kenneth David “F” (Turf & Ornamental) TAB 15
- 4. Jones, Christopher S. “B & C” (General Pest and Wood Destroying Organisms) TAB 16
- 5. McCann, John Thomas “B” (General Pest) TAB 17
- 6. Saggio, David P. “B & C” (General Pest and Wood Destroying Organisms) TAB 18

D. Request to Broaden Qualifying Party (Mr. Tolton)

- 1. Saline, Donald V. “C” (Wood Destroying Organisms) TAB 19
- 2. Sammons, John Wayne “F” (Turf & Ornamental) TAB 20

E. Request for Temporary Qualifying Party License Renewal (Mr. Tolton)

- 1. Dahlem, David H. dba Terminix of Mohave County . . . TAB 21
- 2. Halterman, Daniel D. dba Africanized Bee & Pest TAB 22
- 3. Henderson, Jason P. dba A Bee & Pest Pro TAB 23
- 4. Jones, Christopher S. dba Prodigy Pest & Termite Control f.n.a. Bio-Chem Services TAB 24

5. McKenzie, Barbara dba Zap Pest Control, Inc. TAB 25

F. Request for Company Name Change (Mr. Tolton)

1. Nu-Treat, Inc. to Nu-Treat Pest Services TAB 26

G. Continuing Education Committee Minutes. TAB 27
July 2003 (Mr. Martin)

H. Treatment Proposals (Mr. Colvin)

1. Bad Bug Pest Management TAB 28

End of Consent Agenda

VII. Felony Applicants (Mr. Tolton)

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

1. O'Connor, Joshua Daniel TAB 29

2. Payne, III, Frederick G. TAB 30

3. Stratton, Jonathan Scot TAB 31

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. Eric Batchelder - Case # 2003-071 TAB 32

The Complaint contains allegations of violations resulting from Mr. Batchelder storing granular pesticides inside a soda bottle as well as leaving his chemical storage unsecured.

The following terms were agreed to at the settlement conference:

1. That Applicator Batchelder, **Cert. #970918**, be issued a **\$700.00 Civil Penalty** and an **Administrative Warning** pursuant to A.R.S. § 32-2321(B)(1) (Disciplinary action), for violations of A.A.C. R4-29-301(A) (Misuse), A.A.C. R4-29-311(E) (Provisions for Pesticide Storage) and A.A.C. R4-29-314(A-C) (Pesticide storage on Service Vehicles).

Staff's Recommendation: That the terms be accepted as proposed.

NOTE: Applicator Batchelder requests that the Civil Penalty be payable in \$100.00 increments, due the 11th of each month for a seven-month period (The first payment due on August 11, 2003; the last payment due January 11, 2004).

2. Beaver's Exterminating - Case # 2003-021 TAB 33

The Complaint contains allegations of violations resulting from two applicators applying pesticides without current certification in a category and the business licensee performing work in a category (Turf and Ornamental) which it does not possess a license.

The following terms were proposed (**of which all parties were agreeable**):

1. That the **Business License** for Beaver's Exterminating, **LIC # 5386**, be issued a **\$300.00 Civil Penalty (due within 30 days of the Commission Order)** and an **Administrative Warning** pursuant to A.R.S. § 32-2321(B)(2) (Disciplinary action) for violation of A.A.C. R4-29-302(A) (Certified applicator required) (due to A.A.C. R4-29-104) (Joint Responsibility).

2. That **Qualifying Party**, Richard K. Smith, **QP # 813 B**, be issued a **\$200.00 Civil Penalty (due within 30 days of the Commission Order)** and an **Administrative Warning** pursuant to A.R.S. § 32-2321(B)(1) for violation of A.R.S. § 32-2325(2) and (3) (Unlawful Acts) (due to A.A.C. R4-29-104) (due to Joint Responsibility).

3. That Applicator Cecil Freeman (**Cert. #030054**) be issued a **\$100.00 Civil Penalty (due within 30 days of the Commission Order)** and an **Administrative Warning** pursuant to A.R.S. § 32-2321(B) for violation of A.R.S. §32-2315(A) (Registered employees), A.R.S. § 32-2325(4) (Unlawful Acts) (due to A.A.C. R4-29-104) (Joint Responsibility).

4. That Applicator Darrell Mock (**Cert. #030061**) be issued a **\$200.00 Civil Penalty (due within 30 days of the Commission Order)** and an **Administrative Warning** pursuant to A.R.S. § 32-2321(B)(1) for violation of A.R.S. § 32-2315(A) (Registered employees), A.R.S. § 32-2325(4) (Unlawful Acts) (due to A.A.C. R4-29-104) (Joint Responsibility).

Staff’s Recommendation: That the terms be accepted as proposed.

NOTE: Applicator Darrell Mock requests that his Civil Penalty be divided into three (3) payments (\$66.33, \$66.33 and \$66.34), due on the 11th of each month beginning with August 11, 2003.

3. Jason Starr/Conn Pest Control - Case # 2002-114 TAB 34

The Complaint contains allegations of violations resulting from Applicator Jason Starr, failing to record conditions conducive which existed at a property located at 160 East Pauline Street, Flagstaff, Arizona. Mr. Starr failed to document these conditions on the original as well as the supplemental wood infestation reports (WIR).

Enforcement Staff interviewed three employees with Conn Pest Control who allegedly provided training for Mr. Starr. The documents submitted indicate that Mr. Starr was trained in identifying earth to wood contact, faulty grade, and other conditions conducive.

A statement of complaint was filed against Conn Pest Control and Mr. Starr, however, no response was received from Mr. Starr.

On September 5, 2002, Office Manager Dickie McWilliams responded to the complaint by stating that all the conditions conducive have been corrected by the company, which the homeowner, Mr. Maryann Shepherd, confirmed.

On March 24, 2003, the Commission mailed to Mr. Starr a reminder that his response to the complaint had not been received.

On June 3, 2003, the Commission mailed Mr. Starr a notice for settlement conference.

On June 28, 2003, Investigation Supervisor Craig telephoned Ms. Shepherd to ascertain if any other problems existed. Ms. Shepherd informed Mr. Craig that she is satisfied.

As of June 27, 2003, the Commission has not received any form of communication from Mr. Starr. Furthermore, Mr. Starr’s certification expired on May 31, 2003.

Staff's Recommendation: Dismiss Case #2002-114 as it pertains to the business and forward Case #2002-114-APP (as it pertains to Applicator Starr) to the Office of Administrative Hearings.

4. Timothy Fickett - Case # 2003-082 TAB 35

The Complaint contains allegations of violations resulting from Applicator Timothy Fickett completing the work of structural pest control without the benefit of a license. Furthermore, while performing the unlicensed activity, Mr. Fickett sold a consumer (Dr. Krishnan Bala) a bait station, that he described (verbal and written) as Sentricon. However, the bait station was actually First Line.

The following terms were proposed:

1. That **Applicator Timothy Fickett** (CERT. #000471 that expired on 5/02) (new CERT. #020865 - retest date 10-30-02) be issued a **Civil Penalty** in the amount of **\$500.00** and an Administrative Warning pursuant to A.R.S. § 32-2321(B)(2) (Disciplinary action) for violation of A.R.S. § 32-2325(1) and (2) (Unlawful acts.)
2. That **Applicator Timothy Fickett** (CERT. #000471 that expired on 5/02) (new CERT. #020865 - retest date 10-30-02) be issued a **Civil Penalty** in the amount of **\$400.00** and an **Administrative Warning** pursuant to A.R.S. § 32-2321(B)(3) (Disciplinary action) for violation of A.A.C. R4-29-301(B)(...falsification of any pesticide record).
3. That the combined total Civil Penalty of \$900.00 (\$500.00 for unlicensed activity + \$400.00 for fraudulent records) be **divided into 6 payments of \$150.00**, due on the 11th of each month, beginning with August 11, 2003.

NOTE: Mr. Fickett was agreeable to the terms as proposed.

Staff's Recommendation: That the proposed terms be accepted.

5. J&S Pretreat Company - Case # 2002-126 TAB 36

The Complaint contains allegations of violations resulting from J&S Pretreat applicators completing final grades by doubling the concentration of emulsifiable concentrate and dividing the water by half. While this mixture rate is allowed by label, it is not allowed by Arizona Administrative Code for the treatment of linear footage.

The following terms were proposed:

1. That the **Business License** for J&S Pretreat Company, **LIC # 4178**, be issued an **Administrative Warning** pursuant to A.R.S. § 32-2321(B)(1) and (2) (Disciplinary action) for violation of A.A.C. R4-29-407(C) (Preconstruction Treatments; Establishment of Barriers) and R4-29-402 (Chemicals) (due to A.A.C. R4-29-104) (Joint Responsibility).

2. That **Qualifying Party**, Mr. Mark Higginbottom, **QP # 1584**, be issued a **\$300.00 Civil Penalty** and an **Administrative Warning** pursuant to A.R.S. § 32-2321(B)(1) and (2) (Disciplinary action) for violation of A.A.C. R4-29-407(C) (Preconstruction Treatments; Establishment of Barriers) and A.A.C. R4-29-402 (Chemicals) (due to A.A.C. R4-29-104) (Joint Responsibility).

3. That Applicators Brian Beatty (**Cert #020727**), Allen T. Herzog (**Cert. #020498**) and Kevin Deela (**Cert #020887**) **each and separately** be issued a **\$100.00 Civil Penalty** and an **Administrative Warning** pursuant to A.R.S. § 32-2321(B)(1) and (2) (Disciplinary action) for violation of A.A.C. R4-29-407(C) (Preconstruction Treatments; Establishment of Barriers) and A.A.C. R4-29-402 (Chemicals) (due to A.A.C. R4-29-104) (Joint Responsibility).

Staff's Recommendation: That the terms be accepted as proposed.

NOTE: Attorney Scott Richardson represents all five (5) respondents and they agreed to the terms as proposed.

6. Lee McGhee - Case # 2003-068 TAB 37

The Complaint contains allegations of violations resulting from Mr. Lee McGhee failing to report prior felony convictions to the SPCC when completing applicator certification and qualifying party applications. Mr. McGhee alleges he did not report the felonies because they were reduced to misdemeanors. Enforcement Staff is unable to determine if Mr. McGhee's failure to report the felonies were intentional or based on ignorance of the Commission's Statutes.

The following terms were proposed:

1. That Applicator Lee McGhee, **Cert. #980293**, be issued an **Administrative Warning** pursuant to A.R.S. § 32-2321 (B)(2) and (B)(4) (Disciplinary action) for violation of A.R.S. § 32-32-2312(A) (Applicator certificates) and A.R.S. § 32-2314(A)(A) (Qualifying party).

Staff's Recommendation: That the terms be accepted as proposed.

NOTE: Applicator Lee McGhee agreed to the terms as proposed.

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. Nathan Abel dba The Bug Guy Pest Control - Case # 2003-007 TAB 38

The Complaint contains allegations of violations resulting from Applicator Nathan Abel engaging in the work of structural pest control without the benefit of a license. Enforcement Staff received evidence from Qualifying Party James Abel (Year Round Pest Control) that Nathan Abel stole Year Round Pest Control accounts and performed the work of structural pest control without the benefit of a license.

Enforcement staff initially located Nathan Abel at a friend's home, whereby he admitted the unlicensed activity.

Currently, Enforcement staff is unable to contact Mr. Nathan Abel for a settlement conference. Nathan Abel's last known address was with Mr. James Abel. According to Mr. James Abel, Nathan Abel is currently incarcerated.

Staff's Recommendation: Issue a \$500.00 Civil Penalty and a Cease and Desist Order against Nathan Abel (owner) and The Bug Guy Pest Control jointly and severally.

2. James Ahearn dba Perfectionist Pest Control - Case # 2003-028 TAB 39

The Complaint contains allegations of violations resulting from engaging in the work of structural pest control without the benefit of a license. Mr. Ahearn is a certified applicator. Mr. Ahearn previously worked for a licensed pest control company. However, during the settlement conference Mr. Ahearn stated that he was going to work on his "own" for a while because of alleged unfavorable treatment he received from his previous employer. As a certified employee, Mr. Ahearn was aware of the licensing requirements.

The following terms were proposed:

1. That a **\$750.00 Civil Penalty** and a **Cease and Desist Order** be imposed against Applicator Ahearn (owner) (**CERT # 020650**) and Perfectionist Pest Control jointly and severally for violation of A.R.S. § 32-2325(1) (Unlawful acts), A.R.S. § 32-2321(B)(2) Disciplinary action; grounds; procedure; appeal and A.A.C. R4-29-208(A) (Qualifying party required). **The penalty shall be divided into three payments of \$250.00, each due on the 11th of each month, beginning with August 11, 2003.**

Staff's Recommendation: That the proposed terms be accepted

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

3. Jerry Backlund - Case # 2003-053 TAB 40

The Complaint contains allegations of violations resulting Mr. Jerry Backlund performing the business of structural pest control without the benefit of a license. Mr. Backlund completed two weed control applications on property that he did not own, rent, or lease, using Weed Be Gone herbicide.

The following terms were proposed at the settlement conference:

1. That a **Cease and Desist Order** be issued against **Mr. Jerry Backlund**.

Staff' Recommendation: That the proposed terms be accepted

NOTE: Mr. Backlund agreed to the terms of the settlement. Mr. Backlund was also informed that while staff can "propose" terms, the Commissioners make the final decision.

Enforcement staff did not recommend the \$500.00 Civil Penalty due to the following information obtained during this investigation:

Mr. Backlund only completed two spot treatment applications over a 12-month period, using a hand sprayer. Mr. Backlund is 63 years old and is retired. Mr. Backlund paints homes, mows lawns, and performs other "handyman" duties in his retirement community. Mr. Backlund is not employed by the community, nor is he operating a landscaping company or other business.

4. Ms. Imogene Bennett dba Aquatic Ecosystems - Case # 2003-044 TAB 41

The Complaint contains allegations of violations resulting Ms. Imogene Bennett doing business as Aquatic Ecosystems without the benefit of a license. Ms. Bennett used the resources of Mr. Bennett's former company (Aquatic Ecosystems, business license that

expired in 12/00) to engage in unlicensed activity. Ms. Bennett alleges the work was performed to support Mr. Bennett as he is alleged to be terminally ill. As of April 23, 2003, Ms. Imogene has obtained a qualifying party credential # 8242 E-1. Aquatic Ecosystems obtained a business license # I 8216 on May 9, 2003.

The following terms were proposed at the settlement conference:

1. That a **\$500.00 Civil Penalty** be imposed against Ms. Imogene Bennett (owner) and Aquatic Ecosystems jointly and severally for violation of A.R.S. § 32-2325(1) (Unlawful acts), A.R.S. § 32-2321(B)(2) (Disciplinary action) and A.A.C. R4-29-208(A) (Qualifying party required). **The Civil Penalty shall be due 30 days from the date of the Commission Order.**

Staff's Recommendation: That the proposed terms be accepted

NOTE: Ms. Bennett and Mr. Bennett agreed to the terms as proposed.

5. Al Fresco Landscaping - Case # 2003-034 TAB 42

The Complaint contains allegations of violations resulting from an employee of Al Fresco Landscaping, Mr. Richard Demo performing the business of structural pest control without the benefit of a license.

The following terms were proposed at the settlement conference:

1. That a **Cease and Desist Order and a \$500.00 Civil Penalty** be imposed against Al Fresco Landscaping for violation of A.R.S. § 32-2325(1) (Unlawful acts), A.R.S. § 32-2321(B)(2) (Disciplinary action) and A.A.C. R4-29-208(A) (Qualifying party required). **The Civil Penalty shall be due 30 days from the date of the Commission Order.**

Staff's Recommendation: That the proposed terms be accepted

NOTE: Attorney Jonathan M. McGee, Jr., agreed to the terms as proposed for Al Fresco Landscaping.

6. Ralph Moody dba Lake Maintenance - Case # 2003-070 TAB 43

The Complaint contains allegations of violations resulting from Applicator Ralph Moody (applicator certification #011050 and pending qualifying party application) completing the work of structural pest control at **The Lakes Community Association (TLCA), 5501**

South Lakeshore Drive, Tempe, Arizona 85283,

**from July 25, 2001 to
April 30, 2003.**

Mr. Moody did not have a business license to complete the work of structural pest control. Furthermore, Mr. Moody has a prior violation (**CASE # 2000-121**) for unlicensed activity.

On **June 4, 2003**, a notice of complaint was mailed to Mr. Moody along with a notice for a Settlement conference for **June 12, 2003**. Mr. Moody previously held a business license for Lake Maintenance Company that was suspended for failing to renew. He then continued to provide pest control services without a license.

Mr. Moody failed to respond to the complaint in writing to this complaint and failed to attend the Settlement Conference.

Staff’s Recommendation: That Mr. Moody (applicator certificate # 011050 that was issued on December 5, 2001 and Lake Maintenance Company (business license # 8228 that was issued on June 16, 2003) jointly and severally be issued a \$750.00 Civil Penalty for unlicensed activity.

7. Ralph Moody dba Lake Maintenance - Case # 2003-079 TAB 44

The Complaint contains allegations of violations resulting from Applicator Ralph Moody (applicator certification # 011050 and pending qualifying party application) completing the work of structural pest control **The Town of Gilbert Parks Department (TTOG), 1025 South Gilbert Road, Gilbert, Arizona 85234,** from **October 1, 2001 to March 31, 2003.**

Mr. Moody did not have a business license to complete the work of structural pest control. Furthermore, Mr. Moody has a prior violation (**CASE#2000-121**) for unlicensed activity.

Staff’s Recommendation: That Mr. Moody (applicator certificate # 011050 that issued on December 5, 2001 and Lake Maintenance Company (business license # 8228 that was issued on June 16, 2003) jointly and severally be issued an \$850.00 Civil Penalty for unlicensed activity.

8. Ralph Moody dba Lake Maintenance - Case # 2003-080 TAB 45

The Complaint contains allegations of violations resulting from Applicator Ralph Moody (applicator certification # 011050 and pending qualifying party application) completing the work of structural pest control at **The City of Mesa Parks Department (TCMPD), 125 North Hobson Street, Mesa, Arizona 85203,** from **June 2, 2001 to May 28,**

2003.

Mr. Moody did not have a business license to complete the work of structural pest control. Furthermore, Mr. Moody has a prior violation (**CASE #2000-121**) for unlicensed activity.

Staff's Recommendation: That Mr. Moody (applicator certificate # 011050 that was issued on December 5, 2001 and Lake Maintenance Company (business license # 8228 that was issued on June 16, 2003) jointly and severally be issued a \$950.00 Civil Penalty for unlicensed activity.

9. Ralph Moody dba Lake Maintenance - Case # 2003-081 TAB 46

The Complaint contains allegations of violations resulting from Applicator Ralph Moody (applicator certification # 011050 and pending qualifying party application) completing the work of structural pest control at **Garden Lakes Community Association (GLCA), 111th Avenue and Indian School Road, Avondale, Arizona, from November 8, 2002 to April 18, 2003.**

Mr. Moody did not have a business license to complete the work of structural pest control. Furthermore, Mr. Moody has a prior violation (**CASE #2000-121**) for unlicensed activity.

Staff's Recommendation: That Mr. Moody (applicator certificate # 011050 that was issued on December 5, 2001 and Lake Maintenance Company (business license # 8228 that was issued on June 16, 2003) jointly and severally be issued a \$1050.00 Civil Penalty for unlicensed activity.

10. Pueblo El Mirage RV Resort - Case # 2003-047 TAB 47

The Complaint contains allegations of violations resulting from engaging in the work of structural pest control without the benefit of a license. Mrs. Barbara Roberts manager and owner of the R.V. Resort has employees who apply pesticides at the R.V. Resort. However, because the applicators do not own, rent, or lease the R.V. Resort and failed to meet the requirements of A.R.S. § 32-2311.01, the R.V. Resort is engaged in the business of structural pest control without a license.

The following terms were proposed:

1. That a **\$500.00 Civil Penalty** and a **Cease and Desist Order** be imposed against Pueblo El Mirage RV Resort **and (OWNER Barbara Roberts)** jointly and severally for violation of A.R.S. § 32-2325(1) (Unlawful acts), A.R.S. § 32-2321(B)(2) Disciplinary

action; grounds; procedure; appeal and A.A.C. R4-29-208(A) (Qualifying party required). **Payment is due 30 days from the date of the Commission Order.**

Staff's Recommendation: That the proposed terms be accepted

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

11. Anthony Sanchez - Case # 2003-072 TAB 48

The Complaint contains allegations of violations resulting from Mr. Sanchez engaging in the work of structural pest control without the benefit of a license. During this investigation, it was noted that Mr. Sanchez has a total of three employees. However, Mr. Sanchez alleges only he and his son apply the herbicide.

The following terms were proposed at the settlement conference:

1. That a **\$500.00 Civil Penalty** and a **Cease and Desist Order** be imposed against Mr. Anthony Sanchez for violation of A.R.S. § 32-2325(1) (Unlawful acts), A.R.S. § 32-2321(B)(2) (Disciplinary action) and A.A.C. R4-29-208(A) (Qualifying party required).

Staff's Recommendation: That the proposed terms be accepted

NOTE: Mr. Sanchez did NOT agree to the proposed terms.

12. Yuma School District #1 - Case # 2003-036 TAB 49

The Complaint contains allegations of violations resulting from engaging in the work of structural pest control without the benefit of a license. Investigator Tony Harback witnessed school grounds applicators applying Round Up Herbicide. None of the applicators are certified and the work the applicators performed does not constitute "emergency services."

The following terms were proposed:

1. That a **\$500.00 Civil Penalty** and a **Cease and Desist Order** be imposed against Yuma School District #1 for violation of A.R.S. § 32-2325(1) (Unlawful acts), A.R.S. § 32-2321(B)(2) Disciplinary action; grounds; procedure; appeal and A.A.C. R4-29-208(A) (Qualifying party required). **The Civil Penalty is due 30 days from the date of the Commission Order.**

Staff's Recommendation: That the proposed terms be accepted

NOTE: Mr. Weatherwax, Director of Facilities Maintenance and Construction agreed to the terms as proposed.

X. Suspension of Business, Qualifying Party and/or Applicator Licenses (Mr. Craig)

ARS § 32-2321(F)(2) states “The certificate, license, qualification or registration may be suspended without a hearing if its holder fails within thirty days to: Pay civil penalties.

ARS § 32-2321(H) allows the SPCC to automatically revoke a license, qualification or certificate that is suspended under paragraph (F) without a hearing after one year of suspension.

1. Bio-Chem Services - Case # 2003-031 TAB 50

The Commission suspended Bill Jones Qualifying Party License # 456 BC for failing to pay a \$6,500.00 balance of a civil penalty ordered in July 2000.

On May 16, 2003, Mr. Jones paid by Cashier’s check \$5,000.00 for civil penalties to the Structural Pest Control Commission.

On June 10, 2003, Mr. Jones paid by Cashier’s Check \$1,500.00 (the remaining balance) for civil penalties to the Structural Pest Control Commission. This matter is now paid in full.

Staff’s Recommendation: For the Commission to review and consider lifting the suspension against Mr. Jones’ qualifying party license # 456 BC.

2. Canyon State Pest Control, Inc. - Case # 2001-327/OAH Case # 01A-327-SPC TAB 51

The Commission issued an Order on May 14, 2003, in Case # 2001-327 imposing a \$250.00 civil penalty against Mr. Jack P. Provenzano Qualifying Party Credential No. 724 BC. Payment was due on June 14, 2003.

As of June 30, 2003, no civil penalties have been paid.

Staff’s Recommendation: Suspend Mr. Provenzano’s Qualifying Party Credential No. 724 BC for failure to pay civil penalties.

3. University Termite and Pest Control - Case # 1999-140 TAB 52

The Commission issued an Order on October 15, 2001, pursuant to a consent agreement, imposing a \$10,528.00 for TARF fees to be paid by University Termite and Pest Control and Mr. Richard L. Rupkey II. The Order also imposed \$5,264.00 for late TARF fees that were to be paid by University Termite and Pest Control and Richard L. Rupkey. No payments have been received.

As of June 30, 2003, no TARF fees or late TARF fees have been paid.

Staff's Recommendation: Suspend University Termite and Pest Control Business License # C 4114 A and Mr. Rupkey's Qualifying Party Credential No. 1909 A for failure to pay TARF fees and late TARF fees.

4. University Termite and Pest Control - Case #'s 2000-056, 2000-163 & 2000-006 TAB 53

The Commission issued an Order on October 15, 2001, in consolidated Case # 00-004, 00-003, 00-132, 00-133, 00-172, 00-271, 00-294, 01-003, 01-042, 01-071, 01-072 and 01-104 pursuant to a consent agreement, imposing a \$4,000.00 civil penalty against University Termite and Pest Control and Mr. Richard L. Rupkey. No payments have been received.

As of June 30, 2003, no civil penalties have been paid.

Staff's Recommendation: Suspend University Termite and Pest Control Business License # C 4114 A and Mr. Rupkey's Qualifying Party Credential No. 1909 A for failure to pay civil penalty fees.

5. Patrick L. Ellis - Case # 2000-268 TAB 54

The Commission issued an Order on April 10, 2001, in Case # 2000-268 imposing \$1,000.00 in civil penalties to be paid at \$200.00 per month beginning thirty (30) days from the effective date of the Order.

The following payments were made:

1. Money Order # 02738404023 in the amount of \$200.00, dated April 4, 2001;
2. Money Order # 02548493741 in the amount of \$200.00, dated April 30, 2001;
3. Check # 1112 in the amount of \$200.00, dated June 5, 2001; and
4. Check # 1147 in the amount of \$200.00 dated July 9, 2001.

There is a balance owed in the amount of \$200.00. As of June 30, 2003, the remaining \$200.00 has not been paid.

Staff's Recommendation: Suspend Patrick L. Ellis's Applicator Certificate # 000532 BCD for failure to pay civil penalty fees.

6. Gary Fortune - Case # 2000-268 TAB 55

The Commission issued an Order on April 10, 2001, in Case # 2000-268 imposing \$1,000.00 in civil penalties to be paid at \$200.00 per month beginning thirty (30) days from the effective date of the Order.

The following payments were made:

1. Money Order # 02738404012 in the amount of \$200.00, dated April 4, 2001;
2. Money Order # 02548493752 in the amount of \$200.00, dated April 30, 2001;
3. Check # 1111 in the amount of \$200.00, dated June 5, 2001; and
4. Check # 1148 in the amount of \$200.00 dated July 9, 2001.

There is a balance owed in the amount of \$200.00. As of June 30, 2003, the remaining \$200.00 has not been paid.

Staff's Recommendation: Suspend Gary Fortune's Applicator Certificate # 900881 VII BCD for failure to pay civil penalty fees.

7. Phoenix Pest & Termite Control - Case # 2000-268 TAB 56

The Commission issued an Order on April 13, 2001, in Case # 2000-268 imposing \$8,000.00 in civil penalties to be paid at \$4,000.00 within thirty (30) days from the effective date of the Order and the remaining \$4,000.00 to be paid within sixty (60) day from the effective date of the Order, against Phoenix Pest & Termite Control.

The following payments were made:

1. Check # 104211 in the amount of \$2,000.00, dated May 17, 2001;
2. Check # 104212 in the amount of \$2,000.00, dated May 17, 2001; and
3. Check # 105448 in the amount of \$500.00, dated October 9, 2001.

There is a balance owed in the amount of \$3,500.00. As of June 30, 2003, the remaining \$3,500.00 has not been paid.

Staff's Recommendation: Suspend Phoenix Pest & Termite Control, Inc., Business License # C 4028 BCDEF for failure to pay civil penalty fees.

XI. Recommended Decision and Order of Administrative Law Judge (Mr. Driggs)

1. Thomas R. Marcell - SPCC Case # 2002-021/OAH Docket # 02A-021-SPC-res
..... **TAB 57**

XII. For discussion, consideration and action: Reconsideration of denial to renew Gloria Kilian's Temporary Qualifying Party. (Mr. Francis) TAB 58

XIII. For discussion, reconsideration and possible action of activating Qualifying Party License for new business license (Mark Lauch/Lake Maintenance Services); and allowing Qualifying Party applicant to take examinations (Ralph Moody). (Vince Craig)TAB 59

At the June 13, 2003 meeting, the Commission activated Mark Lauch's qualifying party license for Lake Maintenance Service (aquatic pest and aquatic weed categories). The Commission also granted Ralph Moody permission to take the Q.P. examinations in the aquatic pest and aquatic weed categories). The SPCC office has since determined that the Commission issued a September 18, 2001 Cease & Desist Order against Mr. Moody and Lake Maintenance Service and ordered them to pay a \$500.00 civil penalty for unlicensed activity that occurred in April 2000. The case (2000-121) went to a formal hearing on July 24, 2001, where Mr. Moody failed to appear. In reviewing old cases to determine whether Commission Orders have been fully complied with, this matter was located. The SPCC office has no record of this civil penalty being paid. The Structural Pest Control Commission has evidence that for at least four (4) customers (see Agenda tabbed items 43, 44, 45 and 46), Lake Maintenance Company has violated the Cease and Desist Order.

Staff's Recommendation: Consider whether to reconsider the prior approval to Mr. Lauch to activate Lake Maintenance Services as a business licensee, and allowing Mr. Moody to sit for the Q.P. examinations. The other option would be to suspend this business license and Mr. Moody's anticipated Q.P. license for failure to pay a civil penalty.

XIV. For discussion, consideration and possible action. Amending the Wood Infestation Inspection Form and Approving a Fungi Inspection Form. (Mr. Martin)

XV. For information and discussion, not action: EPA's end of the year evaluation for FY02 of the SPCC's compliance with its Cooperative Agreement with the EPA. (Ms. Gervase)

- XVI. For information and discussion, not action: SPCC budget (Ms. Gervase)**
- XVII. For information and discussion, not action: Case Status Report (Ms. Gervase)**
- XVIII. For information and discussion, not action: Complaint Status Log (Mr. Craig)**
- XIX. For discussion, consideration and possible action: Evaluation of Executive Director's performance. The Commission will go into Executive Session to discuss this item pursuant to A.R.S. section 38-431.03(A)(1) and (A)(5).**
- XX. Adjournment**