

NOTICE OF COMMISSION MEETING
FRIDAY, September 12, 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 Minutes (Ms. Gervase)

July 11, 2003 (regular session) Minutes. TAB 1

August 8, 2003 (regular session) Minutes. TAB 1

August 15, 2003 (telephonic conference call) Minutes. TAB 1

July 11, 2003 Executive Session Minutes regarding legal advice on Lake Maintenance Services (Notebook pocket item)

July 11, 2003 Executive Session Minutes regarding evaluation of Executive Director (Notebook pocket item)

III. Call to the public (Chairperson). Each speaker is 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 (Chairperson)

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

Current Proposed dates and locations

October 10, 2003Tucson, AZ
November 14, 2003Scottsdale, AZ
December 12, 2003Scottsdale, AZ
January 9, 2004. Scottsdale, AZ
February 13 or 20, 2004.....Scottsdale, AZ

VI. Consent Agenda (Ms. Gervase)

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. Francis)

1. Burrous, Davelyn A. dba LPC Exterminating (Activating Qualifying Party for new business license in "B" General Pest) TAB 2

2. Crandell, Sterling T. dba Crandell Pest Control (Activating Qualifying Party for new business license in “B” General Pest) TAB 3
3. Daufenbach, Rex F. dba Saint Patrick Termite & Pest Control (Activating Qualifying Party for new business license in “B” General Pest and “C” Wood Destroying Organisms) TAB 4
4. DeWitt, Christopher H. dba Mantis Pest Management (Activating Qualifying Party for new business license in “B” General Pest) TAB 5
5. Ferrier, James G. dba Terravita Golf & County Club (Activating Qualifying Party for new business license in “E” Weed Control and “F” Turf & Ornamental) TAB 6
6. Harris, Richard K. dba Lawn Doctor of Mesa (Activating Qualifying Party for new business license in “B” General Pest, “E” Weed Control and “F” Turf & Ornamental) TAB 7
7. Noriega, Terry L. dba Mariposa Horticultural Enterprises, Inc., (Activating Qualifying Party for new business license in “E” Weed Control and “F” Turf & Ornamental) TAB 8
8. Osweiler, Joseph J. dba David’s Pest Control (Activating Qualifying Party for new business license in “B” General Pest) TAB 9
9. McCall, Scott L. dba Ants in Your Plants, L.L.C. (Activating Qualifying Party for new business license in “E” Weed Control and “F” Turf & Ornamental) TAB 10
10. Robbins, Leslie C. dba Sentry Pest Control, L.L.C. (Activating Qualifying Party for new business license in “B” General Pest) TAB 11

11. Romero, Cynthia dba Norstar Pest Control, LLC (Activating Qualifying Party for new business license in “B” General Pest) TAB 12

12. Shannon, John J. dba A-1 Affordable Pest Control, Inc. (Activating Qualifying Party for new business license in “B” General Pest) TAB 13

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

1. Halterman, Daniel D. dba Africanized Bee & Pest Management (Activating Qualifying Party for existing business license in “B” General Pest) TAB 14

2. Hargrove, Darren A. dba America’s Pest Control (Activating Qualifying Party for existing business license in “E” Weed Control) ... TAB 15

3. Padilla, Sergio dba In Celebration of Golf, LLC (Activating Qualifying Party for existing business license in “E” Weed Control and “F” Turf & Ornamental) TAB 16

4. Smith, Dan dba Art Landscaping, Inc. (Activating Qualifying Party for existing business license in “E” Weed Control, “E-1” Aquatic Weed Control and “F” Turf & Ornamental) TAB 17

5. Vargas, Pete Lopez dba City of Glendale (Activating Qualifying Party for existing business license in “B” General Pest, “E” Weed Control and “F” Turf & Ornamental) TAB 18

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 reconsideration.

C. Applicants for QP Testing (Mr. Francis)

1. Cassel, Arthur Allen	“B” (General Pest)	.....	TAB 19
2. Colpaert, Sr., Kenneth	“B” (General Pest)	.....	TAB 20
3. Cromley, Gary Dean	“B” (General Pest)	.....	TAB 21
4. Denny, Jr., Mark David	“B” (General Pest)	.....	TAB 22
5. Eadie, Leslie Burtram	“E & F” (Weed Control and Turf and Ornamental)	.....	TAB 23
6. Franz, Jon Paul	“B” (General Pest)	.....	TAB 24
7. Hamilton, Kevin D.	“B” (General Pest)	.....	TAB 25
8. Henson, Jr., Ernest L.	“B” (General Pest)	.....	TAB 26
9. Hunt, Steven C.	“B” (General Pest)	.....	TAB 27
10. Lentini, John Thamos	“B” (General Pest)	.....	TAB 28
11. Long, Anthony Mojica	“B” (General Pest)	.....	TAB 29
12. Plumb, George Marlin	“B, E & F” (General Pest, Weed Control and Turf & Ornamental)	.....	TAB 30
13. Potkonjak, Nikola	“C” (Wood Destroying Organisms)	....	TAB 31
14. Sarnicki, David John	“B” (General Pest)	.....	TAB 32
15. Stapley, Mark Cutris	“B & C” (General Pest and Wood Destroying Organisms)	.....	TAB 33

**D. Continuing Education Committee Minutes TAB 34
September 2003 (Mr. Martin)**

E. Treatment Proposals (Mr. Colvin)

- 1. AMERA Sun City Pest Control TAB 35
- 2. Carl’s Termite and Pest Control Company TAB 36
- 3. Control 365 Plus, Inc. TAB 37
- 4. Eco-Logic TAB 38
- 5. Ed Evans Pest Control TAB 39
- 6. Saint Patrick Termite and Pest Control TAB 40
- 7. Sexton Pest Control, Inc. TAB 41
- 8. Termite Specialist TAB 42
- 9. Valleywide Termite and Pest Control TAB 43
- 10. Vernon’s Termite and Pest Control TAB 44

End of Consent Agenda

VII. Request for Temporary Qualifying Party Renewal not on the Consent Agenda (Mr. Francis)

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

- 1. Lentini, John Thamos dba Common Sense Pest Management, Inc.
..... TAB 45

VIII. Felony Applicants (Mr. Francis)

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

- 1. McCord, David R. TAB 46
- 2. McGhee, Lee Eric TAB 47

3. Narvaez, David James TAB 48

4. Romero, Dion TAB 49

5. Rowley, Trent Keith TAB 50

IX. Request Suspension of Expired Qualifying Party Licenses which have not been Renewed (Mr. Francis) TAB 51

A.R.S. § 32-2321(F)(2) allows the Commission to suspend a license, without a hearing, if the licensee fails within thirty days to pay renewal fees. A.R.S. § 32-2321(H) states that a license suspended under paragraph (F) is automatically revoked, without a hearing, after one year of suspension.

	Name of Licensee	License Number
1.	Britnell, Justin M.	3126 B
2.	Curtis, Frederick H.	1979 B
3.	Denning, Melvin	1362 B
4.	Ezell, John Virgil	294 BE
5.	Fisher, Gerald Paul	1458 B
6.	Gonzalez, Jr., Decidero	3106 B
7.	Guerro, Abraham	3213 B
8.	Heuer, Frederick A.	1080 B
9.	Hopkins, Brian Darnell	1881 B
10.	Lindenmuth, Ronald W.	1892 B
11.	Miller, Donald F.	234 B
12.	Miller, Everett Lee	1261 B
13.	Niemann, Doyle R.	461 B
14.	Scott, Arnold E.	3172 BC
15.	Sexton, Daniel R.	1492 B
16.	Spence, Jr., Craig	1737 B
17.	Stein, Kenneth	373 BC
18.	Turner, Jr., Raymond K.	1132 B

X. Request Suspension of Expired Business Licenses which have not been Renewed (Mr. Francis) TAB 52

A.R.S. § 32-2321(F)(2) allows the Commission to suspend a license, without a hearing, if the licensee fails within thirty days to pay renewal fees. A.R.S. § 32-2321(H) states that a license suspended under paragraph (F) is automatically revoked, without a hearing, after one year of suspension.

	Name of Business License	License Number
1.	4-Way Pest Control, Inc.	5702
2.	A & A Pest Control	5580
3.	Adams Exterminating Co.	2133
4.	Adobe Termite Control	5509
5.	All About Bees & Bugs	5743
6.	All Pro Pest Control	5663
7.	All West Pest Management	5791
8.	Anthem Pest Control	5799
9.	Biltmore Pest Control	4265
10.	B-J Exterminating	5558
11.	Britnell Pest Management	5715
12.	Bugsy Exterminating Co.	5002
13.	Canyon State Pest Control	2227
14.	Cecil Dooley Termite-Pest Services Corp.	4022
15.	City of Mesa: Utilities Department	4419
16.	City of Phoenix: Water Services Department	5680
17.	Del E. Webb Communities, Inc.	4217
18.	Del Rio Pest Control	2091
19.	Dependable Pest Control	2095
20.	Don Miller Pest Control	2235
21.	Dorado Country Club	5061
22.	Dorado Pest Control	2090
23.	Flood Control District – Ecology Branch	5672
24.	Double B Pest Control	2500
25.	Gielow Exterminating, Inc.	4076
26.	Harvest Landscaping, Inc.	8154
27.	Heuer Pest Control	5047
28.	Industrial Pest Control	2116
29.	Marksman Pest Control	5696
30.	Myer Pest Control	2242
31.	Norstar Pest Control	5787
32.	Papago Pest Control	5089
33.	Petrini’s Landscaping, Inc.	5467
34.	Raven Golf Club	5327

35.	Skipper's Pest Control	2454
36.	Sunland Village Golf Club 1	5694
37.	Superior Weed & Pest Control	5720
38.	Terry Taylor Exterminating	5789
39.	Tri-Star Pest Control	2423
40.	Unicorn Pest Control	2219
41.	Urban Pest Solutions	5365
42.	We Got Ya Pest Control, Inc.	5782
43.	Wildfire Golf Club	5753
44.	Workman Home Services	5805

XI. 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. Alliance Pest Management, Inc. - Case 2003-016 TAB 53

The Complaint contains allegations of violations resulting from Mr. Kozluk, Applicator, issuing a warranty for the sale of a property and failing to perform a complete treatment. Additionally, porches and patios were not drilled. Therefore, a continuous chemical barrier was not completed.

Compliance/Enforcement Staff monitored a corrective treatment by Alliance Pest Management on August 12, 2003.

The following terms were proposed to Mr. Kozluk and Mr. Lewis, Q.P., respectively:

1. That the **Business License** Alliance Pest Management, **LIC # 2253**, be issued an **Administrative Warning and a Civil Penalty of \$400.00 (due within 30 days of the Commission Order)** pursuant to A.R.S. § 32-2321(A) (Disciplinary action), for violating

A.R.S. § 32-2321(B)(2) (Violating Rules), A.R.S. § 32-2323(D) (Wood destroying pests or organisms; treatment proposal), A.A.C. R4-29-301 (Misuse of any pesticide), A.A.C. R4-29-410(A) and (B) (Post-construction treatments) (due to A.A.C. R4-29-104 (Joint Responsibility)).

2. That **Qualifying Party**, Mr. John Vincent Lewis, **QP # 537 BC**, be issued an **Administrative Warning and Civil Penalty of \$200.00 (due within 30 days of the Commission Order)** pursuant to A.R.S. § 32-2321(A) (Disciplinary action), for violating A.R.S. § 32-2321(B)(2) (Violating Rules), A.R.S. § 32-2323(D) (Wood destroying pests or organisms; treatment proposal), A.A.C. R4-29-301 (Misuse of any pesticide), A.A.C. R4-29-410(A) and (B) (Post-construction treatments) (due to A.A.C. R4-29-104 (Joint Responsibility)).

3. That Applicator Paul Kozluk, **CERT. # 780222**, be issued an **Administrative Warning and a Civil Penalty of \$200.00 (due within 30 days of the Commission Order)** pursuant to A.R.S. § 32-2321(A) (Disciplinary action), for violating A.R.S. § 32-2321(B)(2) (Violating Rules), A.R.S. § 32-2323(D) (Wood destroying pests or organisms; treatment proposal), A.A.C. R4-29-301 (Misuse of any pesticide), A.A.C. R4-29-410(A) and (B) (Post-construction treatments).

NOTE: Both Mr. Kozluk and Mr. Lewis were agreeable to the proposed terms.

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

2. Bug Off Pest Control, dba Payson Exterminating - Case # 2003-073 TAB 54

The Complaint contains allegations of violations resulting from Applicator Richard Ross completing a Wood Infestation Report (WIR) for the sale of a property but not inspecting the crawl space of the home. Mr. Ross performed a joint inspection with another applicator. While Mr. Ross inspected the interior, another applicator inspected the exterior. The exterior of the home had conditions conducive and evidence of wood destroying organisms, which was missed by the other applicator and therefore, not reported on the WIR.

The following terms were proposed:

1. That the **Business License**, Bug Off Pest Control, dba Payson Exterminating, **LIC # 2228** and Mr. Richard Ross jointly and severally be issued an **Administrative Warning and a Civil Penalty of \$300.00 (due within 30 days of the date of the Commission Order)** pursuant to A.R.S. § 32-2321(A) (Disciplinary action), for violating A.R.S. § 32-2321(B)(2) (Violating Rules) and (B)(11) (Fraudulent statement or intentional material

misrepresentation), A.A.C. R4-29-412(D) (Wood infestation reports) and A.A.C. R4-29-413(A)(8),(9),(10),(12) (Wood Infestation Reports) (due to A.A.C. R4-29-104 (Joint Responsibility)).

2. That **Qualifying Party**, Mr. William Sherrill, **QP # 1768**, be issued an **Administrative Warning** pursuant to A.R.S. § 32-2321(A) (Disciplinary action), for violating A.R.S. § 32-2321(B)(2) (Violating Rules) and (B)(11) (Fraudulent statement or intentional material misrepresentation), A.A.C. R4-29-412(D) (Wood infestation reports) A.C. R4-29-413(A)(8),(9),(10),(12) (Wood Infestation Reports) (due to A.A.C. R4-29-104 (Joint Responsibility)).

3. That Applicator Richard Ross, **CERT. # 980125**, be issued an **Administrative Warning and a Civil Penalty of \$300.00 (due within 60 days of the date of the Commission Order)** pursuant to A.R.S. § 32-2321(A) (Disciplinary action), for violating A.R.S. § 32-2321(B)(2) (Violating Rules) and (B)(11) (Fraudulent statement or intentional material misrepresentation), A.A.C. R4-29-412(D) (Wood infestation reports) and A.A.C. R4-29-413(A)(8)(9)(10)(12) (Wood Infestation Reports).

NOTE: Mr. Ross and Mr. Sherrill agreed to the terms as proposed. The other termite inspector was not addressed due to legal opinion of the Assistant Attorney General Blair Driggs that only the applicator whose name is on the WIR and on the TARF is responsible for the accuracy of the inspection and for performing a complete inspection.

Enforcement Staff viewed the gravity of this violation to be higher than a four (4) due to the fact that 1) Mr. Ross signed a WIR indicating that he inspected the home. However, Mr. Ross did not inspect the entire home. 2) Mr. Ross indicated no conditions conducive, however a letter was submitted a day later acknowledging conditions conducive; and 3) Mr. Ross is the business licensee and passed the termite qualifying party exam, which should indicate he has a greater knowledge of the rules and statutes governing WIR's. Enforcement staff views the gravity as an eight (8).

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

3. Brandon Carr - Case # 2003-017 TAB 55

The Complaint contains allegations of violations resulting from Mr. Carr failing to store pesticides in accordance to the Arizona Administrative Code. As a result, the pesticide granules caused a non-target contamination. Mr. Carr acknowledged he was trained to store pesticides properly. However, Mr. Carr failed to heed his training in pesticide storage.

The following terms were proposed to Mr. Carr, which he accepted:

1. That Applicator Brandon Carr, **CERT. # 840030**, be issued an **Administrative Warning and a Civil Penalty of \$400.00** pursuant to A.R.S. § 32-2321(A) (Disciplinary action), for violating A.R.S. § 32-2321(B)(2) (Violating Rules), A.A.C. R4-29-301 (Misuse of any pesticide), A.A.C. R4-29-314(C) (Pesticide storage on service vehicles).

NOTE: Mr. Carr requests that the Civil Penalty be paid in three monthly increments due to financial hardships.

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

4. Cochise Termite & Pest Control - Case # 2003-025 TAB 56

The Complaint contains allegations of violations resulting from Applicator Richard Newbill issuing a warranty for the sale of a property and failing to perform a complete treatment. Additionally, porches and patios were not drilled. Therefore, a continuous chemical barrier was not completed. There were no training records to indicate this violation could have been prevented.

Arrangements were made whereby an applicator from the company will complete a corrective treatment measure on September 3, 2003. This application will be monitored by Inspector George Schellhorn.

The following terms were proposed to Mr. Ramey and Mr. Newbill respectively:

1. That the **Business License** Cochise Termite & Pest, **LIC # 4337**, be issued an **Administrative Warning and a Civil Penalty of \$400.00 (due within 30 days of the Commission Order)** pursuant to A.R.S. § 32-2321(A) (Disciplinary action), for violating A.R.S. § 32-2321(B)(2) (Violating Rules), A.R.S. § 32-2323(D) (Wood destroying pests or organisms; treatment proposal), A.A.C. R4-29-301 (Misuse of any pesticide), A.A.C. R4-29-410(A) and (B) (Post-construction treatments) (due to A.A.C. R4-29-104 (Joint Responsibility)).

2. That **Qualifying Party**, Mr. Donald Ramey, **QP # 861 BC**, be issued an **Administrative Warning** pursuant to A.R.S. § 32-2321(A) (Disciplinary action), for violating A.R.S. § 32-2321(B)(2) (Violating Rules), A.R.S. § 32-2323(D) (Wood destroying pests or organisms; treatment proposal), A.A.C. R4-29-301 (Misuse of any pesticide), A.A.C. R4-29-410(A) and (B) (Post-construction treatments) (due to A.A.C. R4-29-104 (Joint Responsibility)).

3. That Applicator Richard Newbill, **CERT. # 940023**, be issued an **Administrative Warning and a Civil Penalty of \$200.00(due within 30 days of the Commission Order)** pursuant to A.R.S. § 32-2321(A) (Disciplinary action), for violating A.R.S. § 32-2321(B)(2) (Violating Rules), A.R.S. § 32-2323(D) (Wood destroying pests or organisms; treatment proposal), A.A.C. R4-29-301 (Misuse of any pesticide), A.A.C. R4-29-410(A) and (B) (Post-construction treatments).

NOTE: Both Mr. Ramey and Mr. Newbill were agreeable to the proposed terms.

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

5. Hilltop Golf Management, Inc., dba Tree Pros - Case # 2003-011 TAB 57

The Complaint contains allegations of violations resulting from Hilltop Golf Management, Inc., dba Tree Pros Applicator Steven Larance applying pesticides to pine trees in a manner where the product drifted onto two children adjacent to the property. The manner in which the pesticides were applied also caused non-target contamination. There is no evidence that the applicator took precautionary measures to prevent a non-target contamination. There is no evidence that employees of the company received sufficient training to prevent such a violation.

The following terms were proposed to:

1. That the **Business License**, Hilltop Golf Management, Inc. **LIC # 5578**, be issued an **Administrative Warning and a Civil Penalty of \$900.00 00 (due within 30 days of the Commission Order)** pursuant to A.R.S. § 32-2321(A) (Disciplinary action), for violating A.R.S. § 32-2321(B)(2) (Violating Rules) and (B)(5) (Applying pesticides inconsistent with label which may cause undue harm), and A.A.C. R4-29-301 (Misuse of any pesticide), (due to A.A.C. R4-29-104 (Joint Responsibility)).

2. That **Qualifying Party**, Mr. Peter J. Hill, **QP # 1586**, be issued an **Administrative Warning and a Civil Penalty of \$900.00 (due within 30 days of the Commission Order)** pursuant to A.R.S. § 32-2321(A) (Disciplinary action), for violating A.R.S. § 32-2321(B)(2) (Violating Rules) and (B)(5) (Applying pesticides inconsistent with label which may cause undue harm), and A.A.C. R4-29-301 (Misuse of any pesticide), (due to A.A.C. R4-29-104 (Joint Responsibility)).

NOTE: Mr. Hill was agreeable to the terms of the settlement conference.

Staff's Recommendation: That the above terms be accepted as proposed and that the case as it pertains to Applicator Stephen Larance be sent to the Office of Administrative

Hearings.

6. Litchfield Pest Control - Case # 2002-149 TAB 58

This business licensee failed to timely pay a \$600.00 Civil Penalty in connection with Case # 2001-334. However, since filing Case # 2002-149, it paid the Civil Penalty on March 24, 2003.

Therefore, the following terms were proposed:

1. That the **Business License**, Litchfield Pest Control, **LIC # 2483**, be issued an **Administrative Warning** pursuant to A.R.S. § 32-2321(A) (Disciplinary action), for violating A.R.S. § 32-2321(B)(2) (Violating written order of the commission issued at a commission meeting).

NOTE: Mr. Rael, owner and Q.P., agreed to the terms as proposed.

Staff's Recommendation: Accept the terms as proposed.

7. Edward Manciet - Case # 1999-141 TAB 59

The Complaint contains allegations of violations resulting from a former Business Licensee, No Bugs Allowed, and its Qualifying Party, Edward Manciet, failing to perform a complete retreatment upon the third occurrence of termites, failing to file a TARF and failing to respond in writing to the complaint. The former business was sold to Mr. Manciet, who retained the former name, but the business is a new entity with a different license number. The former license was not renewed.

The following terms were discussed at the settlement conference:

1. That the Qualifying Party, Mr. Edward Manciet, **QP # 1161 BC**, be issued an **Administrative Warning** pursuant to A.R.S. § 32-2321 (A) (Disciplinary Action), for violating A.R.S. § 32-2321(B)(2) (Violating Rules), A.A.C. R4-29-417(A) (Termite action registration report), and A.A.C. R4-29-107 (Complaints).

NOTE: Mr. Manciet agreed to the terms as proposed. No disciplinary action was sought against this business licensee since it is a new entity, nor against the former business license that has expired.

XII. 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. Emerald Lawn and Landscape - Case # 2003-087 TAB 60

The complaint contains allegations that Emerald Lawn and Landscape has completed the work of structural pest control without the benefit of a license.

SPCC Staff has investigated this issue and substantiated evidence of violation. Mr. John Clark (owner) submitted a written statement indicating he assumed he could perform the work without a license considering that the herbicides could be purchased over the counter by anyone.

Mr. Clark and son (Mr. Stacy Clark) both submitted statements indicating that all unlicensed activity would cease until they obtained proper licensure.

The following terms were proposed:

1. That **Emerald Lawn and Landscape** and **Mr. John Clark** (jointly and severally) be issued a **Civil Penalty of \$500.00** (due within 30 days of the Commission Order) and a **Cease and Desist Order** pursuant to A.R.S. § 32-2328 (B)(1) and (B)(2) (Unlicensed structural pest control).

NOTE: Mr. John Clark agreed to the terms.

Staff's Recommendation: Accept the terms as proposed.

2. Sundance Landscape - Case # 2003-089 TAB 61

The complaint contains allegations that Sundance Landscape has completed the work of structural pest control without the benefit of a license.

SPCC Staff has investigated this issue and substantiated evidence of violation. Mr. Graham, owner, submitted a letter indicating he would cease and desist all pesticide applications.

The following terms were proposed:

1. That **Sundance Landscape** and **Mr. Mark Graham** (jointly and severally) be issued a **Civil Penalty of \$500.00** (due within 30 days of the Commission Order) and a **Cease and Desist Order** pursuant to A.R.S. § 32-2328 (B)(1) and (B)(2) (Unlicensed structural pest control).

NOTE: Mr. Graham agreed to the terms.

Staff's Recommendation: Accept the terms as proposed.

3. Xeriscapes Unlimited - Case # 2003-088 TAB 62

The complaint contains allegations that Xeriscapes Unlimited has completed the work of structural pest control without the benefit of a license.

SPCC Staff has investigated this issue and substantiated evidence of violation. Mr. Rod Pappas, owner, submitted a letter indicating that he misunderstood the law and will be pursuing licensure.

The following terms were proposed:

1. That **Xeriscapes Unlimited** and **Rod Pappas** (jointly and severally) be issued a **Civil Penalty of \$500.00** (due within 30 days of the Commission Order) and a **Cease and Desist Order** pursuant to A.R.S. § 32-2328 (B)(1) and (B)(2) (Unlicensed structural pest control).

NOTE: Mr. Pappas agreed to the terms.

Staff's Recommendation: Accept the terms as proposed.

4. Lake Maintenance Services - Inquiry # 2003-094 (Notebook pocket item)

The complaint contains allegations that Lake Maintenance Services has completed the work of structural pest control without the benefit of a license. On July 23, 2003, Qualifying Party Mark Laugh submitted his written resignation as Q.P. for this company to the SPCC. SPCC Staff has investigated this issue and substantiated evidence of violations since July 23, 2003.

No settlement conference was pursued with Lake Maintenance Services and its owner, Ralph Moody, who is a licensed applicator and current Q.P. applicant. Staff

is concluding investigations on related cases involving Lake Maintenance Services and Mr. Moody, to be presented at a subsequent Commission meeting. However, staff believes the unlicensed activity of Lake Maintenance Services and Mr. Moody to be serious enough and ongoing for such a substantial time that it is seeking a Cease & Desist Order on this matter now.

Staff's Recommendation: That **Lake Maintenance Services** and **Ralph Moody** (jointly and severally) be issued a **Cease and Desist Order** pursuant to A.R.S. § 32-2328 (B)(1) (Unlicensed structural pest control).

XIII. For discussion, consideration and action: Approval of an amended Wood Destroying Insect Inspection Report Form (currently known as a "WIR"). Approval to become effective on September 18, 2003, assuming HB2341 becomes law on September 17, 2003. (Mr. Martin, Ms. Gervase)

XIV. For discussion, consideration and action: Assessing late fees to S.O.S. Exterminating, Inc. for late Termite Action Report Forms (TARFs). (Ms. Gervase and Mr. Pulido).

A.R.S. § 32-2304(C) requires an \$8.00 filing fee with each TARF. The Commission may assess a penalty of not to exceed \$100 per TARF for failing to submit the TARF and \$8.00 fee within thirty days. A.A.C. R4-29-417(C) and R4-29-211(A) require the Commission to assess an \$8.00 late fee (double the prescribed filing fee) for late TARFs.

S.O.S. and four other companies submitted TARFs using SmartBiz software rather than the SPCC's paper TARFs or the SPCC's CompuTAR software. Those TARFs contained errors and S.O.S. and the other companies were given a one time resubmission deadline without incurring late fees, as long as all errors were corrected. However, after reinstalling and reviewing the resubmitted TARFs, the SPCC office again found one or more pieces of required information missing from S.O.S.'s TARFs (ie: chemical used, A.A.C. R4-29-417(F)(5)). Based on the original submission date and/or the resubmission date, over 3,700 of S.O.S.'s TARFs were late.

XV. For discussion, consideration and action: Licensing schools who perform structural pest control.

In HB 2341 (A.R.S. § 32-2311), the licensing exemption that applied to schools was repealed. Staff proposes that the SPCC implement a licensing structure to handle schools whereby each school district obtains a business license and a qualifying party license, in addition to their applicators having licenses, which would meet the licensing requirements for all of the schools in each licensed district.

XVI. For discussion, consideration and action: Branch office registrations by business licensees with licensed names that differ from the branch offices.

A.A.C. R4-29-209 requires a branch office to use the same name as the licensed business. A.R.S. § 32-2301, et seq., requires a qualifying party to be active in the management of a business and to train and supervise its employees. However, many branches (ie: golf courses) are registered by business licensees with different names and by qualifying parties who are not meeting the legal requirements of managing the business at the branches and employees. Staff proposes that the SPCC notify all business licensees and branch offices who do not meet these legal requirements that their branch office registrations will not be renewed unless they meet the requirements.

XVII. For discussion, consideration and action: Business licensees operating as “DBAs” (doing business as another name).

A.A.C. R4-29-207(B) requires a business licensee to do business under its licensed name. However, many use a “dba”. Staff proposes that the SPCC notify all affected business licensees who do not meet this legal requirement that their business licensee will not be renewed unless they meet this requirement.

XVIII. For information and discussion, not action: Computer Based Testing “CBT” Status and Statistics (Messrs. Martin and Francis; Mr. Michael Means, Metro Institute)

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

XX. For information and discussion, not action: Inquiry Status Log (Mr. Craig)

XXI. For information and discussion, not action: SPCC Budget (Ms. Gervase)

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

XXIII. Adjournment