

**NOTICE OF COMMISSION MEETING
FRIDAY, October 8, 2004
9:00 A.M.
Pima County Administration Building
Board of Supervisor's Hearing Room
130 West Congress, First Floor
Tucson, AZ 85701**

Directions: From I-17 south or I-10 South to Tucson - Exit #258 toward Congress Street/Broadway. Left on West Congress Street. Slight right onto West Broadway Blvd. Left on South Church Avenue. Left on West Congress Street. Parking can be difficult to locate - an underground garage is behind the building.

Note: *Comments* on any item may be made to the Commission by attending the meeting to speak, or communicating with Lisa Gervase at lisagervase@sb.state.az.us, fax (602) 255-1281, mail at the above address, or phone (602) 255-3664.

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 on 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 (Chairperson), Commissioner roll call (Mr. Bauer)

II. 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.

III. Communication with Commissioners (Chairperson)

IV. 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 Commissioner. All persons are encouraged to stay for the entire Commission meeting. However, a person who appears for a matter on the consent agenda may leave after the Commission approves the consent agenda in its one vote; and a person who appears for a matter on the consent agenda that was pulled from the consent agenda is free to leave after the Commission votes on that matter.

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)

Qualifying Party

- 1. Gavelek, Timothy Michael Sunburst Weed Control (TMG)**
(Activating Qualifying Party for new business license in "B3" Right of Way/Weed Control and "B5" Turf & Ornamental Horticulture)

- 2. Kunnen, Harold Jay HouseMaster Home & Termite**
Inspections (Activating Qualifying Party)

for new business license in "B2" Control of Wood-Destroying Insects and "B8" Wood Destroying Insect Inspection)

3. Langdeau, Philip Dale

Sunland Village East Golf Club, Inc.
(Activating Qualifying Party for new business license in "B3" Right of Way/Weed Control and "B5" Turf & Ornamental Horticulture)

4. Tovar, Lon Henry

Protection Termite Control (Activating Qualifying Party for new business license in "B1" General Pest/ Public Health, "B2" Control of Wood-Destroying Insects and "B8" Wood Destroying Insect Inspection)

B. Applications to activate Qualifying Party for Existing Business License (Mr. Tolton)

1. Blankenship, Zachariah A.

Polo Exterminating (Activating Qualifying Party for existing business license in "B1" General Pest/Public Health, "B2" Control of Wood-Destroying Insects and "B8" Wood Destroying Insect Inspection)

2. Bowen Gary Lee

Bowen's Horticulture Services
(Activating Qualifying Party for existing business license in "B1" General Pest/Public Health and "B3" Right of Way/Weed Control)

3. Emmord, Jr., Ralph F.

High Desert Weed Control (Activating Qualifying Party for existing business license in "B5" Turf & Ornamental Horticulture)

4. Ross, Richard M.

Bug Off Pest Control (Activating Qualifying Party for existing business license in "B2" Control of Wood-Destroying Insects and "B8" Wood Destroying Insect Inspection)

5. Valdez, Adrian Leyva

Torres Blancas Golf Club (Activating Qualifying Party for existing business license in "B3" Right of Way/Weed Control and "B5" Turf & Ornamental Horticulture)

For Qualifying Party applicants, Temporary Qualifying Party Applicants, renewal applicants, and name change requests, if applicants do not appear and the Commissioners have questions those applications may be denied or tabled to a future meeting. An applicant that the Commission approves for licensure is approved subject to passing required exams and 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 Licensure (Mr. Tolton)

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|----------------------------------|--|
| 1. Cruzen, Donald Ray | "B1" (General Pest/Public Health) |
| 2. Delaney, James Patrick | "B1" (General Pest/Public Health) |
| 3. Ehlers, William John | "B3" (Right of Way/Weed Control) |
| 4. Meraz, Roberto | "B2 and B8" (Control of Wood-Destroying Insects and Wood Destroying Insect Inspection) |
| 5. Sikes, Troy Nolan | "B1" (General Pest/Public Health) |
| 6. West, Sam Lewis | "B1" (General Pest/Public Health) |

D. Request for Company Name Change

- 1. High Desert Weed Control to High Desert Pest & Weed Control**

End of Consent Agenda

V. Request for Temporary Qualifying Party Renewal not on the Consent Agenda (Mr. Tolton)

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

- | | |
|------------------------------------|-----------------------|
| A. Busch, Donald | ABC Pest Control |
| B. Cruzen Donald Ray | Hometown Pest Control |
| C. Richardson, Stephen Paul | DSR Pest Management |

VI. Complaints against Licensees

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 up to \$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 issue an advisory letter pursuant to A.R.S. § 32-2321 (N). A matter also may be continued for further investigation.

If a 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.

A. Burr Exterminating/Bruce Burr (BL)(QP)(App) - Case # 2004-036 (Mr. Colvin)

This complaint contains allegations that Bruce D. Burr, Licensed Applicator #760546, on 02-20-04, misused the 98-2 fumigate(methyl bromide) product by not properly posting signs prior to fumigation; failed to have two trained applicators performing the fumigation; and applied the product to a site/items not allowed by the label instructions.

The following proposed agreement was reached:

1. **That Burr Exterminating BUS LIC #4044** be issued an **Administrative Warning, a probation reporting period for 12 months and have all applicators take an additional 6 credit hours in the fumigation category (due within 90 days of Commission Order)** pursuant to A.R.S. § 32-2321(A) (Disciplinary action), for a violation of A.R.S. § 32-2321(B)(1) (violating rules)(3 counts), A.A.C. R4-29-301(A) (Misuse of any pesticide) (did not properly post signs prior to fumigation) (did not have two trained applicators on site)(applied the product to a site/items not allowed by the label instructions)).

2. **That Bruce D. Burr QP # 9 and APP LIC # 760546** be issued an **Administrative Warning and Civil Penalty of \$3,000.00 (due within 30 days of the Commission Order) and a probation reporting period for 12 months and an additional 6 credit hours in the fumigation category (due within 90 days of Commission Order)** pursuant to A.R.S. § 32-2321(A) (Disciplinary action), for violation of A.R.S. § 32-2321(B)(1) (violating rules)(3 counts), A.A.C. R4-29-301(A) (Misuse of any

pesticide) (did not properly post signs prior to fumigation) (did not have two trained applicators on site)(applied the product to a site/items not allowed by the label instructions)).

Commission's Options:

1. **Accept** the proposed terms;
2. Return the matter to settlement conference to **Modify** the proposed resolution based on stated factors and rationale;
3. **Reject** the proposed terms and send the matter to hearing based on stated factors and rationale.

B. Dorado Pest Control/Douglas M. Myers (Owner)/Glen Elrod (QP)/Herbert Defrates (App) - Case # 2004-005 (Mr. Colvin)

This complaint contains allegations that on 11/15/2003, Licensed Applicator Herbert Defrates did not apply 51.53 gallons of termiticide of the required 291.53 gallons of termiticide that was required on the pretreatment site located in Tucson, Arizona.

During the 09/10/04 Commission Meeting the Commissioners returned this matter to staff to negotiate a possible civil penalty on the business license. Business Licensee Douglas M. Myers agreed to add a \$200.00 Civil Penalty to the proposed settlement agreement.

The following proposed agreement was reached:

1. That **Dorado Pest Control BUS LIC # 8135** 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 violation of A.R.S. § 32-2321(B)(1) (violating rules), A.A.C. R4-29-402 (Chemicals) (did not apply enough termiticide to the pretreatment site), due to A.A.C. R4-29-104 (Joint responsibility) and A.A.C. R4-29-107 (Complaints)(business licensee did not respond to complaint).

2. That **Glen D. Elrod Qualifying Party # LIC # 670** be issued an **Administrative Warning and a Civil Penalty of \$200.00 (due within 30 days of the Commission Order) and a six month pre-reporting of pretreatment projects** pursuant to A.R.S. § 32-2321 (A) (Disciplinary action), for violation of A.R.S. § 32-2321(B)(1) (violating rules), A.A.C. R4-29-402 (Chemicals) (did not apply enough termiticide to the pretreatment site) due to A.A.C. R4-29-104 (Joint responsibility).

3. That **Herbert Defrates Applicator License # 970102** be issued an

Administrative Warning pursuant to A.R.S. § 32-2321(A) (Disciplinary action), for violation of A.R.S. § 32-2321(B)(1) (violating rules), and A.A.C. R4-29-402 (Chemicals) (did not apply enough termiticide to the pretreatment site), and A.A.C. R4-29-107(Complaints) (applicator licensee did not respond to the complaint).

Commission's Options:

1. **Accept** the proposed terms;
2. Return the matter to settlement conference to **Modify** the proposed resolution based on stated factors and rationale;
3. **Reject** the proposed terms and send the matter to hearing based on stated factors and rationale.

C. Matrix Pest & Termite Elimination, Inc./Dennis M. Garrett Jr. (President and BL)/Dennis M. Garrett Sr. (QP) - Case # 2004-022 (Mr. Colvin)

This complaint contains allegations that on 11/14/2003, Matrix Pest & Termite Elimination allowed a unlicensed person to complete a non-approved treatment proposal for a property located in Mesa, Arizona.

No agreement was reached.

Commission's Option:

1. **Send** the matter to Administrative Hearing.

D. SOS Exterminating, Inc./Steven Weber (QP)/Steve Mayo, II (App) - Case # 2004-031 (Mr. Colvin)

This complaint contains allegations that Licensed Applicator # 030454 Steve Mayo, II performed a final grade treatment in Phoenix, Arizona on 2/6/04, and during the process applied Prevail Termiticide at less than label rates from a pesticide container marked as Demon TC.

No agreement was reached.

Commission's Option:

1. **Send** the matter to Administrative Hearing.

E. Control 365 Plus, Inc./Michael Matheson (QP)/Geoffrey Mark Schell (App) - Case # 2004-038 (Mr. Craig)

This complaint contains allegations of misuse. On 2-25-04, Compliance/Enforcement Staff performed a follow-up inspection of a commercial site treated by Control 365 Plus, Inc. earlier that day. SPCC Staff noted that the drill holes were spaced 16 to 21 inches apart. The termiticide used by Applicator Geoffrey Schell was Termidor. The label for Termidor requires 12 inch drill holes. When asked why the label was not followed, Qualifying Party Michael Matheson claimed that the treatment was not complete. On 3-11-04, SPCC Staff monitored Applicator Schell perform a corrective treatment.

The following proposed agreement was reached:

1. That **CONTROL 365 PLUS, INC, BUS LIC #4118 (Michael Matheson, Corporate Secretary)** 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 a violation of A.R.S § 32-2321(B)(1)(Violating Laws or Rules) and A.A.C. R4-29-301(A)(failed to space drill holes according to label)(due to A.A.C. R4-29-104 (Joint Responsibility)).

2. That **MICHAEL MATHESON, QP LIC #145**, be issued an **Administrative Warning, a Civil Penalty of \$200.00 (due within 30 days of the Commission Order), and serve a three month probation (whereby Mr. Matheson shall pre-report all termite post treatments)** pursuant to A.R.S. § 32-2321(A) (Disciplinary action), for a violation of A.R.S § 32-2321(B)(1)(Violating Laws or Rules) and A.A.C. R4-29-301(A)(failed to space drill holes according to label)(due to A.A.C. R4-29-104 (Joint Responsibility)).

3. That **GEOFFREY MARK SCHELL, APP LIC #030313**, be issued an **Administrative Warning, a Civil Penalty of \$100.00 (due within 30 days of the Commission Order) and obtain 3 additional hours of continuing education in the category of post treatments & wood destroying organisms (separate from what is already required by Statute (due within 90 days of the Commission Order))** pursuant to A.R.S. § 32-2321(A) (Disciplinary action), for a violation of A.R.S § 32-2321(B)(1)(Violating Laws or Rules) and A.A.C. R4-29-301(A)(failed to space drill holes according to label)).

Commission's Options:

1. **Accept** the proposed terms;
2. Return the matter to settlement to **Modify** the proposed resolution based on stated factors and rationale; or

3. **Reject** the proposed terms and send the matter to hearing based on stated factors and rationale.

VII. Unlicensed Activity Complaints

The Commission may discuss, consider and take action on any matter below. The Commission may take action such as issuing a Cease and Desist order and/or imposing a civil penalty of up to \$1,000.00 for the first offense and up to \$2,000.00 for a subsequent offense, according to A.R.S. § 32-2304(B)(16). Action may be taken by Direct Commission Order without a Consent Agreement or Formal Hearing.

A. Abstract Landscaping (Unlicensed)/Troy Boswell (Owner) - Case # 2004-059 (Mr. Colvin)

This complaint contains allegations that on 04-19-04, Abstract Landscaping performed pest control by applying Eraser herbicide from a hand held sprayer without the benefit of a S.P.C.C. license.

The following proposed agreement was reached:

1. That Abstract Landscaping and Abstract Landscaping Owner Troy Boswell be issued a Cease and Desist Order and a Civil Penalty of \$500.00, jointly and severally, (due within 30 days of Commission Order) pursuant to A.R.S. § 32-2304(B)(16) (Disciplinary action for unlicensed activity), for a violation of A.R.S. § 32-2325(1) and (2) (Unlawful acts) (engaged in the business of structural pest control without holding a business license or qualifying party license).

Commission's Options:

1. **Accept** the agreement as proposed.
2. **Modify** the proposal. The Commission may: Issue a Cease and Desist order and/or impose a civil penalty of not more than one thousand dollars for the first offense.

B. Brooks Associates Landscape (Unlicensed)/Jeffery D. Brooks (Owner) - Case # 2004-043 (Mr. Colvin)

This complaint contains allegations that on 03-12-04, Jeffery D. Brooks Owner of Brooks Associates Landscape, performed the business of structural pest control by directing the application of Round-Up Pro herbicide from a back-pack type sprayer without the benefit of a S.P.C.C. license. No proposed agreement was reached.

Staff recommends the following terms:

1. That Brooks Associates Landscape and Jeffery D. Brooks Owner be issued a Cease and Desist Order and a Civil Penalty of \$500.00, jointly and severally, (due within 30 days of Commission Order) pursuant to A.R.S. § 32-2304(B)(16) (Disciplinary action for unlicensed activity), for a violation of A.R.S. § 32-2325(1) and (2) (Unlawful acts) (Engaged in the business of structural pest control without holding a business license or qualifying party license).

Commission's Options:

1. **Accept** staff's recommendation.
2. **Modify** the recommendation. The Commission may: Issue a Cease and Desist order and/or Impose a civil penalty of not more than one thousand dollars for the first offense.

C. Choyal Landscaping, LLC (Unlicensed)/Jesse Inzunza (Member) - Case # 2004-041 (Mr. Colvin)

This complaint contains allegations that Choyal Landscaping, in October of 2003, performed the business of structural pest control by applying herbicide ten times without the benefit of a S.P.C.C. license. No proposed agreement was reached.

Staff recommends the following terms:

1. That **Choyal Landscaping and Choyal Landscaping Member Jesse Inzunza**, be issued a **Cease and Desist Order and a Civil Penalty in the amount of \$500.00, jointly and severely, (due within 30 days of Commission Order)** pursuant to A.R.S. § 32-2304(B)(16) (Disciplinary action that can be taken for unlicensed pest control for a violation of A.R.S. § 32-2325 (1) and (2) (Unlawful acts) (performed the work of structural pest control without a business license or qualifying party license).

Commission's Options:

1. **Accept** staff's recommendation.
2. **Modify** the recommendation. The Commission may: Issue a cease and desist order and/or impose on an unlicensed structural pest control business a civil penalty of not more than one thousand dollars for the first offense.

D. Desert Glen Inc. (Unlicensed)/Charles B. Hawkins (President) - Case # 2004-

048 (Mr. Colvin)

This complaint contains allegations that on 03-29-2004, Desert Glen, through Albert Q. Campos, applied Round-Up Pro Dry and violated label instructions in Tucson, Arizona at the direction of President Charles B. Hawkins, without the benefit of a S.P.C.C. License.

Aggravating Factors: The applicator misused the product's label instruction by not wearing proper protective clothing during the application.

The following proposed terms were reached:

1. That **Desert Glen, Inc., and President Charles Hawkins** be issued a **Cease and Desist Order** and a **Civil Penalty in the amount of \$600.00, jointly and severally, (due within 30 days of Commission Order)** pursuant to A.R.S. § 32-2304(B)(16) (Disciplinary action that can be taken for unlicensed pest control) for a violation of A.R.S. § 32-2325 (1) and (2) Unlawful acts (performed the work of structural pest control without a business license or qualifying party license).

Commission's Options:

1. **Accept** the agreement as proposed.
2. **Modify** the proposal. The Commission may: Issue a cease and desist order and/or impose On an unlicensed structural pest control business a civil penalty of not more than one thousand dollars for the first offense.

E. Eden Green, Inc. (Unlicensed)/Shannon V. Priest (President) - Case # 2004-047 (Mr. Colvin)

This complaint contains allegations that Eden Green, Inc, on 03-23-04, through Stephen Stanley, performed pest control by applying Ortho Weed B Gon herbicide from a 3-gallon sprayer without the benefit of a S.P.C.C. license. No proposed agreement was reached.

Staff recommends the following terms:

1. That **Eden Green, Inc. and Shannon V. Priest, President** be issued a **Cease and Desist Order** and a **Civil Penalty in the amount of \$500.00, jointly and severally, (due within 30 days of Commission Order)** pursuant to A.R.S. § 32-2304(B)(16) (Disciplinary action that can be taken for unlicensed pest control for a violation of A.R.S. § 32-2325 (1) and (2) (Unlawful acts) (performed the work of structural pest control without a business license or qualifying party license).

Commission's Options:

1. **Accept** staff's recommendation.
2. **Modify** the recommendation. The Commission may: Issue a cease and desist order and/or impose on an unlicensed structural pest control business a civil penalty of not more than one thousand for the first offense.

F. Gray Plus Maintenance & Landscape dba G-P Maintenance and Landscape (Unlicensed)/Jared Gray (Owner) - Case # 2004-052 (Mr. Colvin)

This complaint contains allegations that on 04-08-04, Jared Gray, Owner of Gray Plus Maintenance & Landscape performed pest control by applying HI-Yield Weed & Grass Killer from a back-pack type sprayer without the benefit of a S.P.C.C. license.

The following proposed agreement was reached:

1. That **Gray Plus Maintenance & Landscape and Jared Gray (Owner** be issued a **Cease and Desist Order** and a **Civil Penalty in the amount of \$500.00), jointly and severally, (due within 30 days of Commission Order)** pursuant to A.R.S. § 32-2304(B)(16) (Disciplinary action that can be taken for unlicensed pest control for a violation of A.R.S. § 32-2325 (1) and (2) (Unlawful acts) (performed the work of structural pest control without a business license or qualifying party license).

Commission's Options:

1. **Accept** the agreement as proposed.
2. **Modify** the proposal. The Commission may: Issue a cease and desist order and/or impose on an unlicensed structural pest control business a civil penalty of not more than one thousand dollars for the first offense.

G. Infinity Earthworks Inc. (Unlicensed Business)/Darrin Seidel (President) - Case # 2004-016 (Mr. Colvin)

This complaint contains allegations that Darrin Seidel, President of Infinity Earthworks Inc., on 02-03-04 performed pest control by applying Oryza herbicide from a 60 gallon tank sprayer in Tucson, Arizona without the benefit of a S.P.C.C. license.

The following proposed agreement was reached:

1. That **Infinity Earthworks , Inc, Darrin Seidel (President)** be issued a **Cease and Desist Order** and a **Civil Penalty of \$500.00, jointly and severally, (due within 30 days of Commission Order)** pursuant to A.R.S. § 32-2304(B)(16) (disciplinary action for unlicensed activity) for violation of A.R.S. § 32-2325 (1) and (2) (Unlawful acts) (engaged in the business of structural pest control without a business license or qualifying party license).

Commission's Options:

1. **Accept** the agreement as proposed.
2. **Modify** the proposal. The Commission may: Issue a Cease and Desist order and/or Impose a civil penalty of not more than one thousand dollars for the first offense.

H. A Landscape Team LLC (Unlicensed Business)/Garrett L. Rissmiller (Member) - Case # 2004-018 (Mr. Colvin)

This complaint contains allegations that an employee of A Landscape Team LLC, on 02-05-04, performed pest control by applying herbicide from a back-pack type sprayer without the benefit of a S.P.C.C. license. No proposed agreement was reached.

Staff recommends the following terms:

1. That **Landscape Team LLC and Garrett L. Rissmiller (Member)** be issued a **Cease and Desist Order** and a **Civil Penalty in the amount of \$500.00, jointly and severally, due within 30 days of Commission Order)** pursuant to A.R.S. § 32-2304(B)(16) (Disciplinary action for unlicensed activity), for a violation of A.R.S. § 32-2325(1) and (2) (Unlawful acts) (engaged in the business of structural pest control without holding a business license or qualifying party license).

Commission's Options:

1. **Accept** staff's recommendation.
2. **Modify** the recommendation. The Commission may: Issue a Cease and Desist order and/or Impose a civil penalty of not more than one thousand dollars for the first offense.

I. QSR Inc. (Unlicensed)/Jay DeBake (President) - Case # 2004-046 (Mr. Colvin)

This complaint contains allegations that Jay DeBake, President of Q.S.R., Inc., on 03-17-04, directed Daniel Gonzales to perform pest control by applying Roundup Pro herbicide

from a backpack sprayer in Tucson, Arizona without the benefit of a S.P.C.C. license and that Mr. Gonzales misapplied the Round-up Pro by not wearing a long sleeved shirt and pants.

Aggravating Factors: The applicator mis-used the products label instructions by not wearing a long sleeved shirt and long pants during the application.

The following proposed agreement was reached:

1. That **Q.S.R. Inc. and Q.S.R. Inc., President Jay DeBake** be issued a **Cease and Desist Order** and a **Civil Penalty in the amount of \$600.00, jointly and severely, (due within 30 days of Commission Order)** pursuant to A.R.S. § 32-2304(B)(16) (Disciplinary action that can be taken for unlicensed pest control for a violation of A.R.S. § 32-2325 (1) and (2) (Unlawful acts) (performed the work of structural pest control without a business license or qualifying party license).

Commission's Options:

1. **Accept** the agreement as proposed.
2. **Modify** the proposal. The Commission may: Issue a cease and desist order and/or impose on an unlicensed structural pest control business a civil penalty of not more than one thousand dollars for the first offense.

J. Ramiro Mireles Ramos (Unlicensed) - Case # 2004-051 (Mr. Colvin)

This complaint contains allegations that on 03-29-04 Ramiro Mireles Ramiro performed the business of structural pest control by applying Round-Up Weed and Grass Killer herbicide from a back-pack type sprayer without the benefit of a S.P.C.C. license.

The following proposed agreement was reached:

1. That **Ramiro Mireles Ramos** be issued a **Cease and Desist Order and a Civil Penalty of \$500.00 (due within 30 days of Commission Order)** pursuant to A.R.S. § 32-2304(B)(16) (Disciplinary action for unlicensed activity), for a violation of A.R.S. § 32-2325(1) and (2) (Unlawful acts) (engaged in the business of structural pest control without holding a business or qualifying party license).

Commission's Options:

1. **Accept** the agreement as proposed.

2. **Modify** the proposal. The Commission may: Issue a Cease and Desist Order and/or Impose a civil penalty of not more than one thousand dollars for the first offense.

K. T & S Landscaping Services, Inc. (Unlicensed)/Steve LaMagna (President) - Case # 2004-042 (Mr. Colvin)

This complaint contains allegations that Steve LaMagna, President of T & S Landscaping Services, Inc. performed pest control by applying herbicide for small weed control jobs for the last seven years without the benefit of a S.P.C.C. license. T&S Landscaping Services, Inc. hires Snyder's Weed Control (licensed business #5633) for large weed control jobs.

The following proposed agreement was reached:

1. That **T & S Landscaping Services and President Steve LaMagna** be issued a **Cease and Desist Order** and a **Civil Penalty in the amount of \$500.00, jointly and severely, (due within 30 days of Commission Order)** pursuant to A.R.S. § 32-2304(B)(16) (Disciplinary action) (action that can be taken for unlicensed pest control) for violation of A.R.S. § 32-2325 (1) and (2) (Unlawful acts) (performed the work of structural pest control without a business license or qualifying party license).

Commission's Options:

1. **Accept** the agreement as proposed.
2. **Modify** the proposal. The Commission may: Issue a cease and desist order and/or impose a civil penalty of not more than one thousand dollars for the first offense.

L. We Got Ya Pest Control (Unlicensed)/Sergio E. Luna (Expired App) - Case # 2004-037 (Mr. Colvin)

This Complaint contains allegations that Licensed Applicator Sergio E. Luna on 01-19-2004 performed pest control without benefit of a Business License and Qualifying Party License in Tempe, Arizona.

The following proposed agreement was reached:

1. That **We Got Ya Pest Control and Owner Sergio E. Luna** be issued an **Administrative Warning and a \$1,000.00 Civil Penalty, jointly and severely, (due within 30 days of the Commission Order)** pursuant to A.R.S. § 32-2304 (B)(16) (Disciplinary action) (action that can be taken for unlicensed pest control) for a violation of A.R.S. § 32-2325 (Unlawful acts)(1) and (2) (operating without a business license &

qualifying party).

2. That **Sergio E. Luna Applicator Lic # 010712 (expired)** be issued an **Administrative Warning and a Civil Penalty of \$800.00(due within 30 days of the Commission Order)** pursuant to A.R.S. § 32-2321(A)(Disciplinary action), for a violation of A.R.S. § 32-2321(B)(1)(violating rules), A.R.S. § 32-2325 (Unlawful acts)(1) and (2) (operating without a business license & qualifying party), and A.A.C. R4-29-314 (A) (B) (Pesticide Storage on Service Vehicles).

Commission's Options:

1. **Accept** the proposed resolution;
2. Return the matter to settlement to **Modify** the proposed resolution based on stated factors and rationale;
3. **Reject** the proposed resolution and send the matter to hearing based on stated factors and rationale.

M. Saint John Bosco Interparish School (Unlicensed)/Jesus Rocha (Unlicensed App) - Case # 2004-071 (Mr. Craig)

This complaint contains allegations of performing pest control without the benefit of a license. On 03-25-04, Mr. Jesus Rocha (Saint John Bosco School custodian) applied a ready to use, general use pesticide in a classroom. Mr. Rocha stated he performed the treatment because he was told by the school's "front office" that a classroom had a pest problem. Mr. Rocha stated he only sprayed a small amount. During the investigation of this case Messrs. Rocha and Sherman Elliott (principal) stated that they were not aware the actions constituted unlicensed activity and would cease all spraying.

The following proposed agreement was reached:

1. **Saint John Bosco School and Jesus Rocha** be issued a **Cease and Desist Order** pursuant to A.R.S. § 32-2304(B)(16) (Disciplinary action that can be taken for unlicensed pest control activity) for a violation of A.R.S. § 32-2325(1) and (2) (performing the work of structural pest control without a business license or qualifying party license).

NOTE: Compliance/Enforcement Staff did not recommend a civil penalty against Mr. Rocha because 1) the pesticide he used was a ready to use product, 2) the application of the pesticide was in compliance with the label, 3) Mr. Rocha only sprayed a small amount ("a couple of squirts" as he describes it), and 4) Mr. Rocha was not actively/regularly performing pest control, but was called by the front office to address the problem.

Commission's Options:

1. **Accept** the proposed terms.
2. **Modify** the proposed terms. The Commission may: Issue a cease and desist order and/or impose a civil penalty of not more than one thousand dollars for the first offense.

VIII. For information and discussion, not action: (Mr. Craig)

A. Complaint Status Log

IX. For Commission consideration and action:

- A. Case No. 95-131 - SPCC v. American Termite Pest, Inc., (Expired 9/13/00); John Chase (QP expired 12/31/97; Current Applicator License # 940411); Charles Marshall (Current Applicator License # 880174)**
Staff recommends dismissal.
- B. Case No. 2001-021 - SPCC v. American Termite Pest, Inc. (Expired 9/13/00); John Chase (owner/officer; Current Applicator License # 940411); Alan Perry (QP license expired 12/31/00); Frank Keller (Applicator License # 970974 expired 5/30/00; Current Applicator License # 010115)**
Staff seeks Commission's direction to either proceed to formal hearing against one or more of the licensees, or dismiss complaint.
- C. Case No. 2000-020 - SPCC v. Terminix (BL), Brad Stratton (QP), Anthony Vendegna (Applicator License since expired), Daren Stafford (Applicator License since expired), Edward Johns (Applicator)**
Staff recommends dismissal.

X. 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.

A. Daley, Brendan William

B. Ramon, Arnold Vernon

C. Tanner, Jr., Leslie William

- D. Van Zandt, Lawrence Dow
- E. Zagarrigo, Salvatore John
- XI. For information, discussion, and possible action: (Mr. Martin)
 - A. Continuing Education Committee Minutes
- XII. For information and discussion, not action: (Mr. Martin)
 - A. Computer Based Testing “CBT” Status and Statistics
- XIII. Approval of Minutes (Ms. Gervase)
 - September 10, 2004 (regular session) Minutes
- XIV. Scheduling of future meetings/agenda items (Ms. Gervase)
 - Current Proposed dates
 - November 12, 2004
 - December 10, 2004
 - January 14, 2005
 - February 11, 2005
 - March 11, 2005
 - April 8, 20045
- XV. For information and discussion, not action: (Ms. Gervase)
 - A. Expenditure Report. (Meeting handout)
 - B. Case Status Report
- XVI. Adjournment