



STATE OF ARIZONA

## **Structural Pest Control Commission**

9535 E. Doubletree Ranch Road  
Scottsdale, Arizona 85258-5514  
(602) 255-3664 - (602) 255-1281 fax  
<http://www.sb.state.az.us>

Janet Napolitano  
Governor

Lisa Gervase  
Executive Director

### **NOTICE OF COMMISSION MEETING FRIDAY, December 8, 2006, 9:00 A.M.**

**Structural Pest Control Commission  
9535 E. Doubletree Ranch Road  
Scottsdale, AZ 85258**

#### **NOTICES**

***\*\*HOLIDAY GIVING: Every year, the SPCC gets into the holiday spirit by helping those less fortunate. Events have included "adopting" a needy family and donating to a Mexican orphanage. This year, the SPCC is collecting new, unwrapped toys to donate to the Toys for Tots Program. Contributions are welcome.\*\****

**Comments on any item may be made to the Commission by attending the meeting to speak, or communicating with Lisa Gervase by email: [lgervase@sb.state.az.us](mailto:lgervase@sb.state.az.us), fax: (602) 255-1281, mail: SPCC office address, or phone: (602) 255-3664.**

**For people who need language interpretation services or a reasonable accommodation for a disability, please contact Helen Turner by email: [hturner@sb.state.az.us](mailto:hturner@sb.state.az.us), fax: (602) 255-1281, mail: SPCC office 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 members will attend either in person or by telephone conference call to 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. Pursuant to A.R.S. § 38-431(A)(4), the Commission may vote to go into executive session to discuss pending or contemplated litigation. The executive session will not be open to the public. All business conducted in executive session is confidential.

All items except items I, II, III, and IV are subject to decision and vote by the Commission.

## AGENDA

### **I. 9:00 A.M.: Call to order (Chairperson), Commissioner roll call (Ms. Villela)**

**II. Call to the public (Chairperson).** Each speaker is limited to five minutes. This is the time for the public to comment. Pursuant to A.R. S. Section 39-431.01(G), action (if any) taken as a result of public comment will be limited to directing staff to study the matter, responding to any criticism, or scheduling the matter for further consideration at a later date.

**III. Communication with Commissioners (Chairperson).** This is the opportunity for Commissioners who may be involved in decision-making to disclose any written communication or the substance of any verbal communication that occurred with an interested person outside the public meeting, including the name of the person with whom they communicated. This ensures public confidence that deliberations and decision are made in open meetings. If there are no disclosures, the assumption is that there were no such communications.

### **IV. Summary of Current Commission Events, Activities, Notices (Ms. Gervase)**

☺Business License and Qualifying Party License Renewals: Due by 12/1/06. On-line renewal system opened 11/1/06.

⇒ILT (Initial Licensure Training) courses posted on web site. Registration: 480-ILT-SPCC;  
[ILT@sb.state.az.us](mailto:ILT@sb.state.az.us)

☺Continuing Education Courses. SPCC's course schedule posted on web. Registration: 480-CEU-SPCC; [CEU@sb.state.az.us](mailto:CEU@sb.state.az.us)

✓Inspections, Complaints, Cases to note.

☞License applications processed.

### **V. 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 and Activating Qualifying Party License (Mr. Tolton)**

<u>Business</u>	<u>Qualifying Party</u>
1. Spectrum Pest Control, LLC.	Shane D. Pannell ("B1" General Pest & Public Health)
2. Ex-Men Exterminating Termite & Pest Control, LLC.	Eric Toscano ("B1" General Pest & Public Health, "B2" Control of Wood-Destroying Insects and "B8" Wood-Destroying Insect Inspection)
3. Mainspring Golf, LLC.	Keith R. Goyen ("B3" Right-of-Way & Weed Control and "B5" Turf & Ornamental Horticulture)
4. Basin Bugs	Stephen R. Larance ("B1" General Pest & Public Health)
5. ECO Pest, LLC.	Nick P. Ingertson ("B1" General Pest & Public Health)
6. Commercial & Residential Inspections, LLC.	Daniel S. Heinrich ("B2" Control of Wood-Destroying Insects and "B8" Wood-Destroying Insect Inspection)
7. APCO Pest, LLC.	Alexander S. Hewett ("B1" General Pest & Public Health "B2" Control of Wood-Destroying Insects and "B8" Wood-Destroying Insect Inspection)
8. North Country Pest Management	Susan D. Tomlinson ("B1" General Pest & Public Health)

- |                                 |  |
|---------------------------------|--|
| 9. North County Pest Management | Richard B. Lindsay ("B3" Right-of-Way & Weed Control)  |
| 10. ValuePest.com               | Steven H. Glotzer ("B1" General Pest & Public Health "B2" Control of Wood-Destroying Insects and "B8" Wood-Destroying Insect Inspection) |
| 11. Parker Pest Control         | Jerry Hooper ("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)**

<u>Qualifying Party</u>	<u>Business</u>
1. Ronnie H. Pitts	Arizona Dragon Slayer Exterminating ("B4" Fumigation)
2. Matthew S. Kennedy	All Guard Pest Control, LLC. ("B1" General Pest & Public Health)
3. Jeffrey Kregg	Bugsy Pest Control, LLC. ("B1" General Pest & Public Health)
4. Richard E. Lange, Jr.	Brencon Pest Control Company ("B1" General Pest & Public Health)
5. John E. Jung	MD Pest & Termite, Inc. ("B1" General Pest & Public Health "B2" Control of Wood-Destroying Insects and "B8" Wood-Destroying Insect Inspection)

**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. Qualifying Party applicants are not placed on the Agenda until the Commission receives a background report.**

**C. Applications for Qualifying Party License (Mr. Tolton)**

- |                               |   |
|-------------------------------|---|
| 1. Mitchell E. Stevens        | "B3" (Right-of-Way & Weed Control)  |
| 2. Todd D. Hyatt              | "B3" (Right-of-Way & Weed Control) and "B9" (Aquatic Pest Control)  |
| 3. Anthony R. Crothers        | "B1" (General Pest & Public Health)   |
| 4. Gary F. Matley             | "B1" (General Pest & Public Health)   |
| 5. Gary W. Brown              | "B1" (General Pest & Public Health)   |
| 6. Justin L. Abel             | "B1" (General Pest & Public Health)   |
| 7. Elizandro Escobar-Bermudez | "B1" (General Pest & Public Health),<br>"B2" (Control of Wood-Destroying Insects)<br>and "B8" (Wood-Destroying Insect Inspection) |
| 8. Dennis T. Noble            | "B8" (Wood-Destroying Insect Inspection)  |
| 9. Rafael Delgado Silva       | "B1" (General Pest & Public Health),<br>"B2" (Control of Wood-Destroying Insects)<br>and "B8" (Wood-Destroying Insect Inspection) |
| 10. Ronald Hassler            | "B1" (General Pest & Public Health)   |
| 11. John N. Beebe             | "B2" (Control of Wood-Destroying Insects)<br>and "B8" (Wood-Destroying Insect Inspection)   |

**D. Business License Name Change Requests**

None

**End of Consent Agenda**

**VI. Applications not on Consent Agenda**

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

**A. Request for Temporary Qualifying Party License and Renewals (Mr. Tolton)**

1. Rafael D. Silva "B1" (General Pest & Public Health),  
"B2 (Control of Wood-Destroying Insects) and  
"B8" (Wood-Destroying Insect Inspection)
  
2. Gloria L. Kilian "B2 (Control of Wood-Destroying Insects),  
"B3" (Right of Way & Weed Control) and "B8"  
(Wood-Destroying Insect Inspection)

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

None

**C. Applications for Qualifying Party License**

None

**D. Business License Name Change Requests**

None

**VII. Complaints**

**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, further settlement negotiations, or dismissed.

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.

**Unlicensed:** The Commission may discuss, consider and take action on any matter below. For unlicensed activity other than weed control, the Commission may issue a Cease and Desist order and/or impose up to a \$1,000.00 civil penalty for the first offense and up to a \$2,000.00 civil penalty for the second/subsequent offense, according to A.R.S. § 32-2304(B)(16). For unlicensed activity involving weed control, the Commission may issue a written notice of correction for the first violation, impose a civil penalty of up to \$250.00 for

**the second violation, and impose a civil penalty of up to \$500.00 for the third or subsequent violation, according to A.R.S. § 32-2311(C). Action may be taken by Direct Commission Order without a Consent Agreement or Formal Hearing. A matter also may be continued for further investigation, further settlement negotiations, or dismissed.**

**A. Al's Tree & Yardwork, Inc. (Unlicensed Company)/Al Padilla (President)/Jeremiah Padilla (Vice-President) - Case No. 2006-018**

This complaint contains allegations that on 1-11-06 an applicator for Al's Tree & Yardwork Inc. injected Imisol Insecticide/Fungicide into two orange trees bearing fruit. Al's Tree & Yardwork Inc. does not hold a business license or qualifying party license to perform pest control. Additionally, the specimen label for Imisol prohibits the application to trees which will bear fruit within the year following treatment. The company alleged that they believed such an application could be performed if the consumer agreed to it. The company has a prior violation for performing pre-emergent work in 2004.

**The following proposed resolution was reached:**

**1. That Al's Tree & Yardwork, Al Padilla and Jeremiah Padilla be issued a Cease and Desist Order and pay a \$2000.00 Civil Penalty (jointly and severally) (due within 30 days of the Commission Order) pursuant to A.R.S. § 32-2304(B)(16) (Disciplinary action that can be taken against a company for unlicensed activity), via, A.R.S. § 32-2325(1)(2) (Performing pest control without a business license and qualifying party license).**

**Commission's Options:**

1. **Accept** the proposed resolution; or
2. Issue a cease and desist order and/or impose a civil penalty of not more than two thousand dollars for the second occurrence.

**B. Benz Weed Control a.k.a. Sprinkler and Lawn (Unlicensed Company)/Louie Espinoza Gano (a.k.a.) Frank Garcia (Owner) - Case No. 2006-027**

This complaint contains allegations that in 2-06, Louie Espinoza Gano performed pre-emergent weed control without the benefit of a license. He previously did so in 6-05. The SPCC received telephone calls from consumers in each of these occurrences who paid Mr. Gano for pre-emergent weed control with warranties during these respective dates. However, because Mr. Gano failed to honor the warranty work, they contacted the SPCC. Mr. Gano quoted SPCC staff a written proposal for \$5,595.00 for pre-emergent weed control for a homeowner's association. Additionally, Mr. Gano had a Yellow Pages advertisement and business cards, which advertise for pre and post emergent weed control. SPCC records indicate that Mr. Gano applied to take the weed control applicator examination on 10-29-04 and 9-16-06, however, has not taken an

examination.

Mr. Gano failed to attend the scheduled settlement conference or contact the SPCC.

**Commission's Options:**

The Commission may: Issue a Cease and Desist Order and/or impose a Civil Penalty of not more than two thousand dollars for the second occurrence.

**C. Ark Exterminating (BL)/Jackie Wheeler (QP & APP) - Case No. 2006-034**

This complaint contains allegations that in 4/06, Jackie Wheeler Jr. of Ark Exterminating pretreated a site located in Wickenburg, Arizona and shorted it by 134 gallons. Two 24-hour Requests for Records were sent, to which Mr. Wheeler failed to respond. SPCC staff personally visited the business office and found that the records were not completed.

**The following proposed resolution was reached:**

1. That **ARK EXTERMINATING BUS LIC #2244** be issued an **Administrative Warning, pay a \$200.00 Civil Penalty and extend the termite "warranty" of the property for an additional year, thus requiring a 6-year responsibility (compared to five years as required by Arizona Administrative Code). Evidence of the extension shall involve the company sending a letter, via certified mail, to the consumer and builder and send the SPCC a copy of the letters and the certified mail numbers (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/rules), via A.R.S. § 32-2321(B)(15) and A.A.C. R4-29-408(D) (Failed to make and maintain true and accurate termite records), A.A.C. R4-29- 309(A) (Failed to comply with two 24-hour Requests for Records) and R4-29-107(A) (Failed to respond to the complaint in 20 days); A.A.C. R4-29-402 (Improper quantity of termiticide applied) due to Joint Responsibility (A.R.S. § 32-2308).
2. That **JACKIE WHEELER QP LIC #772** be issued an **Administrative Warning, pay a \$200.00 Civil Penalty and obtain four (4) hours of continuing education in the categories of Laws, Pretreatments, and Measurements (separate from that required for license renewal) (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/rules), via A.R.S. § 32-2321(B)(15) (Failed to make true and accurate records), A.A.C. R4-29- 309(A) (Failed to comply with two 24-hour Requests for Records) and R4-29-107(A) (Failed to respond to the complaint in 20 days); A.A.C. R4-29-402 (Improper quantity of termiticide applied) due to Joint Responsibility (A.R.S. § 32-2308).
3. That **JACKIE WHEELER APP LIC #940192** be issued an **Administrative Warning, pay a \$200.00 Civil Penalty and obtain four (4) hours of continuing education in the categories**

**of Laws, Pretreatments, and Measurements (separate from that required for license renewal) (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/rules), via A.R.S. § 32-2321(B)(15) (Failed to make true and accurate records) and R4-29-107(A) (Failed to respond to the complaint in 20 days) and A.A.C. R4-29-402 (Improper quantity of termiticide applied).

**Commission's Options:**

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

**D. Truly Nolen (BL)/Robert Hartley (QP) - Case No. 2005-086**

This complaint contains allegations that a Truly Nolen applicator misused a pesticide by applying it in a restaurant kitchen that was in operation, which is contrary to label requirements. Further investigation revealed that this applicator was working three (3) months past the 90-day period to be licensed and evidence of direct supervision was lacking. Additionally, another applicator (who previously held a license) was found working one (1) month past the 90-day period to be licensed.

**The following proposed resolution was reached:**

1. That **TRULY NOLEN BUS LIC #4020** be issued an **Administrative Warning**, pursuant to A.R.S. § 32-2321(A) (Disciplinary action) for a violation of A.R.S § 32-2321 (B)(1) (Violating laws), via A.R.S. § 32-2312(E) (Employees not licensed within 90-days of being employed by business licensee); and A.R.S. § 32-2321(B)(4) (Applying pesticides inconsistent with label instructions), A.R.S. § 32-2325(4) (Applicator applying pesticide without a license) (due A.R.S. § 32-2308 (Joint Responsibility)).
2. That **Robert Hartley QP LIC #674** be issued an **Administrative Warning and pay a \$600.00 Civil Penalty (due within 30 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 laws), via A.R.S. 32-2312(F) (Unlicensed applicators working without direct supervision of licensed applicator); and A.R.S. § 32-2321(B)(4) (Applying pesticides inconsistent with label instructions), A.R.S. § 32-2325(4) (Applicator applying pesticide without a license) (due A.R.S. § 32-2308 (Joint Responsibility)).

**Commission's Options:**

1. **Accept** the proposed resolution;

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

**E.. Truly Nolen (BL)/Robert Hartley (QP)/Richard Niblick (APP)/Wayne Woods (APP) - Case No. 2006-016**

This complaint contains allegations that on 12-16-05, Truly Nolen applicator Wayne Woods had a pesticide dust stored in a Gatorade beverage bottle. The bottle housed the dust for several months. The branch manager, Richard Niblick, was unaware of the improperly stored pesticide because he had never inspected Mr. Wood's vehicle.

During the course of this investigation, qualifying party Robert Hartley provided evidence of training that should have been adequate to prevent an applicator from committing such a violation. Therefore, SPCC staff recommends that the complaint be dismissed against the Business Licensee and Qualifying Party Licensee.

**The following proposed resolution was reached:**

1. That **Richard Niblick APP LIC #051083** be issued an **Administrative Warning and obtain three (3) hours of continuing education in the categories of Laws and Safety (separate from that required for license renewal) (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/rules), via A.A.C. R4-29-301(A) and A.A.C. R4-29-311(E) (Misuse of pesticide due to improper storage) (due to A.R.S. § 32-2308 (Joint Responsibility)).
2. That **Wayne Woods APP LIC #030748** be issued an **Administrative Warning , pay a Civil Penalty of \$200.00 and obtain three (3) hours of continuing education in the categories of Laws and Safety (separate from that required for license renewal) (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), via A.A.C. R4-29-301(A) and A.A.C. R4-29-311(E) (Misuse of pesticide due to improper storage).

**Commission's Options:**

1. **Accept** the proposed resolution and dismiss against the Business Licensee and Qualifying Party Licensee; or
2. Return the matter to settlement conference to **Modify** the proposed resolution based on stated factors and rationale; or
3. **Reject** the proposed resolution and send the matter to hearing.

**VIII. Requests for Review or Rehearing of Previous Commission Decisions. (Ms. Gervase)**

None

**IX. Review or Rehearing of Previous Commission Decisions. (Ms. Gervase)**

None

**X. Consideration of Suspension of Business, Qualifying Party and/or Applicator Licenses for Non-payment of Civil Penalties and/or Nonpayment of Renewal Fees [Possible Dismissal of Cases without prejudice, if applicable]. (Ms. Gervase)**

None

**XI. Consideration of lifting Suspension of Business, Qualifying Party and/or Applicator Licenses. (Ms. Gervase)**

A. Oby Allen Dunn (QP) and All Pro Pest Control (BL) - Case No. 2005-063 - Qualifying Party License No. 3065 B1, B2, B8 (Issued 10/15/99) (Expired 12/31/05) (Suspended 2/3/06), Business License No. 8288 (Issued 2/13/04) (Expired 12/31/05) (Suspended 2/3/06)

Commission's consideration of reinstating Oby Allen Dunn's Qualifying Party License and All Pro Pest Control Business License. In December 2005, Mr. Dunn's 2005-2006 Applicator License renewal was denied by the Commission due to his criminal conviction. The SPCC also filed Complaint #2005-063, for failing disclose the conviction on his 2004-2005 QP renewal. He did not renew his QP and Business licenses in the 2005-2006 renewal period. His business and QP licenses were suspended for nonpayment of renewal fees, effective February 3, 2006, and the complaint was dismissed without prejudice. The Business and QP licenses will automatically be revoked on February 3, 2007 unless the licenses are reinstated. On 11/21/06, Mr. Dunn filed the Qualifying Party and Business License Renewal applications with the fees and late fees (seeking reinstatement of these licenses).

If the licenses are reinstated, the Commission may consider how to proceed with Case No. 2005-063, and whether to renew Mr. Dunn's QP and Business Licenses.

**XII. Recommended Decisions and Orders of the Office of Administrative Hearings' Administrative Law Judges. (Ms. Williams)**

A. K & S Exterminating, Inc. dba Adams Exterminating (BL)/Kenneth Barnes (QP & APP)

**XIII. Settlement Proposals [not part of Complaints agenda item].**

None

**XIV. Consideration of Informal Settlement Conference proposed resolutions [for License Denial Applicants]. (Ms. Gervase)**

None

**XV. Reporting by Licensees on Probation. (Ms. Gervase)**

None

**XVI. Applicants with Criminal Convictions. (Mr. Tolton)**

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

A. Tyrus C. Etheridge

B. Ricardo F. Munoz

C. Brandon Workman

D. Amulfo Gonzalez, Jr.

**XVII. Commission Updates and Reports; Miscellaneous Action Items.**

A. Election of Commission officers for 2007 (Chairperson, Vice-Chairman & Secretary) (Ms. Gervase).

B. None

C. None

D. Complaint Status Log (Mr. Francis/Mr. Craig)

E. Computer Based Testing "CBT" Status and Statistics (Mr. Francis)

F. Expenditure Report (Ms. Gervase)

G. Case Status Report (Every other month - last report 11/06) (Ms. Gervase)

**XVIII. Approval of Minutes and Continuing Education Programs**

A. October 13, 2006 (regular session) Minutes (Ms. Gervase)

B. November 9, 2006 (regular session) Minutes (Ms. Gervase)

C. Continuing Education Program Applicants (Mr. Craig)

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

**Current Proposed dates**

**January 12, 2007**

**February 9, 2007**

**March 9, 2007**

**April 13, 2007**

**May 11, 2007**

**June 8, 2007**

**July 13, 2007**

**August 10, 2007**

**September 14, 2007**

**October 12, 2007**

**XX. Adjournment**