

**NOTICE OF COMMISSION MEETING  
FRIDAY, January 13, 2006, 9:00 A.M.**

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

**NOTICES**

**Comments** on any item may be made to the Commission by attending the meeting to speak, or communicating with Lisa Gervase by email: [lisagervase@sb.state.az.us](mailto:lisagervase@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 Rosemary Celaya by email: [rcelaya@sb.state.az.us](mailto:rcelaya@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 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. 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 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 (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 is 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. **Summary of Current Commission Events, Activities, Notices (Ms. Gervase)**

☞ Watch website for status of *Proposed* Law and Rule Changes.  
[www.sb.state.az.us](http://www.sb.state.az.us)

✓ Business License & Qualifying Party License Renewal status

☞ CEU (Continuing Education Units) and ILT (Initial Licensure Training) courses posted on web site. Registration: 480-CEU-SPCC; [CEU@sb.state.az.us](mailto:CEU@sb.state.az.us); 480-ILT-SPCC; [ILT@sb.state.az.us](mailto:ILT@sb.state.az.us)

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 (Mr. Tolton)**

**Qualifying Party**

1. Scarcelli, Jeffrey H.                      **Wickenburg Pest Control, LLC.  
(Activating Qualifying Party for new  
business license in "B1" General Pest  
& Public Health)**
  
2. Cummings, James G.                      **Queen Creek Termite Control  
(Activating Qualifying Party for new  
business license in "B2" Control of  
Wood-Destroying Insects and "B8"  
Wood-Destroying Insect Inspection)**
  
3. Hultman, Julia Marie                      **JMH Weed Control (Activating  
Qualifying Party for new business  
license "B3" Right of Way & Weed  
Control)**
  
4. Clifford, Christopher M.                      **Super Pest Control (Activating  
Qualifying Party for new business  
license in "B1" General Pest & Public  
Health and "B3" Right of Way & Weed  
Control)**
  
5. Martinez, Bill                              **Cobra Pest Control, LLC. (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. Hammond, Jr.; Donald P.                      **Integrity Termite & Pest Control, Inc.  
(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. Myers, Rodney L.**

**Quintero Golf & Country 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. 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. Davis, Vincent M.**

**"B1" (General Pest & Public Health)**

**2. Stadler, Brian W.**

**"B3" (Right of Way & Weed Control) and  
"B5" (Turf & Ornamental Horticulture)**

**3. Jantzen, Jon K.**

**"B3" (Right of Way & Weed Control) and  
"B5" (Turf & Ornamental Horticulture)**

**4. Ehritz, Jeffrey**

**"B8" (Wood-Destroying Insect  
Inspection)**

**5. Gorodenski, Christopher**

**"B2" (Control of Wood-Destroying  
Insects) and "B8" (Wood-Destroying  
Insect Inspection)**

**6. Colvin, David L.**

**"B3" (Right of Way & Weed Control) and  
"B5" (Turf & Ornamental Horticulture)**

**7. Bussey, Daniel L.**

**"B1" (General Pest & Public Health), "B2"  
(Control of Wood-Destroying Insects),  
"B4" (Fumigation) and "B8" (Wood  
Destroying Insect Inspection)**

**8. Saitman, James S.**

**"B1" (General Pest & Public Health)**

- |                         |  |
|-------------------------|--|
| 9. Mott, Patrick J.     | “B1” (General Pest & Public Health), “B2” (Control of Wood-Destroying Insects), “B4” (Fumigation) and “B8” (Wood-Destroying Insect Inspection) |
| 10. Kirkey, Richard J.  | “B1” (General Pest & Public Health)  |
| 11. Staron, Paul David  | “ B 8 ” ( W o o d - D e s t r o y i n g I n s e c t Inspection)  |
| 12. Pisano, Napoleon O. | “B5” (Turf & Ornamental Horticulture)  |
| 13. Paschke, Michael J. | “ B 8 ” ( W o o d D e s t r o y i n g I n s e c t Inspection)  |
| 14. Turcott, Eric Scott | “B1” (General Pest & Public Health), “B2” (Control of Wood-Destroying Insects), and “B8” (Wood-Destroying Insect Inspection)                   |

**D. Business License Name Change Requests**

1. **Artezan Pest Services to SJM Exterminating**
2. **Coy Landscaping & Maintenance, Inc. to Coy Landscaping & Nursery, Inc.**
3. **SBM Cleaning Company of Oregon, LLC. to SBM Site Services, LLC.**

**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 Renewals ( Mr. Tolton)**

1. **Gile, Barbara Beth** “B3” (Right of Way & Weed Control) and “B5” (Turf & Ornamental Horticulture)

2. Smoot, Michael Ray            “B1” (General Pest & Public Health), “B2” (Control of Wood-Destroying Insects), and “B8” (Wood-Destroying Insect Inspections)

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

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

None

C.    Applications for Qualifying Party License

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

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. 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 matter also may be continued for further investigation, further settlement negotiations, or dismissed.

**A. Christopher Kurtze (APP) - Case # 2005-046 (Mr. Craig)**

This complaint contains allegations that in March or April of 2005, a consumer paid Christopher Kurtze \$375.00 (via check) for a termite treatment and \$30.00 cash for a weed control treatment. While Mr. Kurtze was an employee of a licensed company at the time, the consumer hired Mr. Kurtze (not the company) for the pest control services. Mr. Kurtze received payment. Mr. Kurtze stated he did not use the licensed company's equipment, but used his own to perform the treatment.

**The following proposed resolution was reached:**

That **Christopher Kurtze APP LIC #020231** be issued an **Administrative Warning and a \$800.00 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), to wit, A.R.S. § 32-2325(1) & (2) (Engaged in the business of structural pest control without a business license and qualifying party license).

**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.

**B. Warren Control Company (BL)/Kelly Warren (QP/Sole-Proprietor) - Case # 2005-067 (Mr. Craig)**

This complaint contains allegations that on 8-30-05, an unlicensed applicator for Warren Control Company (hired within 90 days of the application) misused pesticide granules by applying them to the patio of a home in Tucson, Arizona. The applicator also failed to water in the granules as required by label. Additionally, the applicator failed to record the name of the granules on the record of application left with the customer. The applicator admitted that he was not trained.

**The following proposed resolution was reached:**

1. That **Warren Control Company BUS LIC #5084** 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/rules), to wit, A.A.C. R4-29-307(B)(4)(5)(6) (Make and

preserve treatment records) and A.A.C. R4-29-305(A) (failure to provide written notification immediately following an application of pesticide) (due to A.R.S. § 32-2328 (Joint Responsibility)).

**2. That Kelly Warren QP LIC #1445 be issued an Administrative Warning and a \$400.00 Civil Penalty and take 2 hours of continuing education (CE) in the category of Safety (separate from the CE required to renew a license) (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), to wit, A.R.S. § 32-2314(G) (Failure to train and supervise), A.R.S. § 32-2325(B)(4) (Applying pesticides in a manner that is inconsistent with the label), A.A.C. R4-29-304(D) (Granules exposed on patios, walkways or floors), and A.A.C. R4-29-307(B)(4)(5)(6)(Make and preserve treatment records) (due to A.R.S. § 32-2328 (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.

#### **C. Earthheart Company (BL)/Edward Schultz (QP/Sole-Proprietor)/Tyson Schultz (APP) - Case # 2005-064 (Mr. Craig)**

This complaint contains allegations that on 6-15-05, applicator Tyson Schultz disposed of seven pesticide containers contrary to label directions. Also, Tyson Schultz had been performing pest control treatments after his applicator license expired on 5/31/03. Also, the QP failed to be active in the management of the business and failed to create and maintain treatment records. The business failed to maintain insurance and was suspended, but continued to perform pest control services, and then its license expired in December 2004 for failure to renew.

#### **The following proposed resolution was reached:**

**1. That Earthheart Company BUS LIC #5695 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/rules), to wit, A.R.S. § 32-2321(B)(15) (Failure to make and maintain ... records of treatments performed), A.R.S. § 32-2325(1) (Engaged in the business of ... pest control without holding a business license), A.A.C. R4-29-302(A)

(Each company shall ... cause to have applied pesticides only an applicator who has a valid applicator license...) and A.A.C. R4-29-206(B) (...During an interruption in insurance coverage, a company shall terminate all pest control-related activities...).

**2.** That **Edward Schultz QP LIC #5695** be issued an **Administrative Warning and a \$1,900.00 Civil Penalty (due within 60 days of Commission Order (in two payments of \$950.00 due on 2/28/06 and 3/28/06))** pursuant to A.R.S. § 32-2321(A) (Disciplinary action) for a violation of A.R.S § 32-2321(B)(1) (Violating laws/rules), to wit, A.R.S. § 32-2314(G) (... qualifying party shall be active in the management of the business licensee...), A.R.S. § 32-2325(1) (Engaged in the business of ... pest control without holding a business license), A.R.S. § 32-2325(4) (Apply pesticides...unless the person is an applicator licensed in that category...), A.A.C. R4-29-312(A) (...disposal of pesticide containers shall be in strict accordance with label directions...) (due to A.R.S. 32-2328 (Joint Responsibility)).

**3.** That **Tyson Schultz APP LIC #991049** be **REVOKED** pursuant to A.R.S. § 32-2321(A) (Disciplinary action) for a violation of A.R.S § 32-2321(B)(1) (Violating laws/rules), to wit, A.R.S. § 32-2325(4) A.R.S. § 32-2325(4) (Apply pesticides...unless the person is an applicator licensed in that category...) and A.A.C. R4-29-312(A)(...disposal of pesticide containers shall be in strict accordance with label directions...).

#### **Commission's Options:**

- 1. Accept** the proposed resolution;
- 2.** Accept the proposed resolution as it pertains to the business license and qualifying party **ONLY**, and **suspend** the applicator license of Tyson Schultz (due to non-payment of renewal fees) and dismiss without prejudice against him [the license would then be automatically revoked in one year];
- 3.** Accept the proposed resolution as it pertains to the business license and and qualifying party **ONLY**, and **send** the Tyson Schulz portion to **hearing**;
- 4.** Return the matter to settlement conference to **Modify** the proposed resolution based on stated factors and rationale; or
- 5. Reject** the proposed resolution and send the ENTIRE matter to hearing.

**D. All Pro Pest Control (BL)/Oby A. Dunn (QP) - Case # 2005-063 (Mr. Craig)**

This complaint contains allegations that on 12-31-04, during the business license and qualifying party license renewal, Mr. Dunn failed to disclose a felony for which he was convicted. Five months later (via the applicator license renewal) Mr. Dunn reported the felony conviction. Mr. Dunn has not renewed his business license or qualifying party license for the 2005 renewal.

**No proposed resolution could be reached.**

**Commission's Options:**

1. **Suspend** the business license and qualifying party license for non-payment of renewal fees and dismiss the complaint without prejudice [automatic revocation one year later]; or
2. Send the matter to **hearing** based on stated factors and rationale.

**E. Norstar Pest Control, LLC. (BL)/Eric Lund (QP/APP) - Case # 2005-028 (Mr. Craig)**

This complaint contains allegations that on or about 3-02-05, Eric Lund, Norstar Pest Control, LLC performed a pest control service without the benefit of a valid applicator, qualifying party or business license. During the investigation, Mr. Lund provided SPCC staff with, purportedly, all of his customers for whom he provides pest control services as well as 42 treatment records. The treatment records indicate that Mr. Lund generated at least \$2,225.00 in revenue for pest control services. One consumer paid Mr. Lund for a whole year of pest control services and when Mr. Lund failed to honor the agreement, the consumer reported it to the SPCC. During an interview with Mr. Lund, he alleged that he performed the pest control work to "save up" to re-activate his expired licenses.

**No proposed resolution was reached.**

**Commission's Options:**

1. **Suspend** the business license, qualifying party license and applicator license due to non-payment of renewal fees and dismiss the complaint without prejudice; or
2. Send the matter to **hearing** based on stated factors and rationale.

**F. Albert Rene Pesqueira (APP) - Case # 2005-034 (Mr. Craig)**

This complaint contains allegations that Applicator Albert Rene Pesqueira failed to report a felony conviction on four separate applications. Mr. Pesqueira's initial licensing application dated 11-15-95 and three renewal applications between the dates of 1996 and 2004 were marked "no" for the question, "have you ever been convicted of a felony?". However, on 2-10-94, Mr. Pesqueira was convicted of Aggravated Assault/Endangerment.

Mr. Pesqueira has failed to respond to this complaint. Mr. Pesqueira's applicator license expired on 05/31/2005. This matter was on the December 9, 2005 agenda and the Commission voted to send the case to hearing. After the December meeting, staff recognized that this applicator license expired, providing the Commission with the option of suspending the license without a hearing for nonpayment of renewal fees. Therefore, this matter is being presented again for the Commission's consideration.

**Commission's Options:**

- 1. Rescind the prior vote to hearing and Suspend** the applicator license for non-payment of renewal fees and dismiss the complaint without prejudice [license automatically revoked in one year]; or
- 2. Leave the prior vote to 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)**

- A. Jason Thomas Workman, Applicator License No. 040692 B1 (Issued 08/11/2004) (Expires 05/31/2006) - Commission's consideration of Suspension of Jason Thomas Workman's Applicator License for nonpayment of civil penalty.**

**B. Brian W. Oldham, Qualifying Party License No. 2029 B1 B2 B8 (Issued 05/22/1998) (Expires 12/31/2006) and Applicator License No. 940470 B1 B2 B5 B8 (Issued 06/08/1994) (Expires 05/31/2006) - Commission's consideration of Suspension of Brian W. Oldham's Qualifying Party License and Applicator License for nonpayment of civil penalties.**

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

None

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

**A. Xavier Martin Marquez, Applicator License No. 991073 B1**

**XIII. Settlement Proposals [not part of Complaints agenda item]. (Ms. Miles)**

None

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

None

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

**A. Robert L. Morency, Applicator License No. 051084 B1 - Case No. 2005-077.** Mr. Morency reports the status of his compliance with his employment status, and probation compliance and status. Mr. Morency was granted a license pursuant to a consent agreement in November 2005.

**B. Benjamin Sanchez, Applicator License No. 050236 B1 B3 - Case No. 2005-007.** Mr. Sanchez reports the status of his compliance with criminal probation, employment status and rehabilitation status. Mr. Sanchez was granted a license pursuant to a consent agreement in February 2005.

**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. Wilkerson, Joseph D.
- B. Burrell, Christopher
- C. Miller, Mark J.
- D. Dietz, Jordan P.
- E. Veltre, Troy K.
- F. Smoluk, Jeffrey A.
- G. Ruiz, Jorge
- H. Martin, Christopher L.
- I. Ireland, James V.
- J. Armstrong, Michael W.
- K. Sakievich, David W.
- L. Carey, Timothy D.

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

- A. **Royal Pest Control (BL)/Derrill L. Hume (QP) - Case No. 1996-192.** On December 9, 1997 a Consent Agreement and Order was issued. Derrill L. Hume, Qualifying Party, was assessed a civil penalty in the amount of \$500. On November 21, 2005, during the process of the SPCC's review and closure of old case files, a letter was sent to Mr. Hume with respect to the \$500 civil penalty. On November 29, 2005 the SPCC received a response from Mr. Hume that he paid this penalty, but due to the length of time, no longer has a record of the payment. Although the SPCC has no record of payment of this civil penalty, Mr. Hume has a long, positive licensing history with the SPCC and has timely renewed his licenses.

The Commission's options include closing this matter or pursuing documentation of payment.

- B. **Possible Future Law Changes (Ms. Gervase).**

- C. Possible Future Rule Changes (emailed to Commissioners on December 30, 2005, and on SPCC Web site) (Ms. Gervase).
- D. Complaint Status Log (Mr. Francis/Mr. Craig).
- E. Computer Based Testing "CBT" Status and Statistics (Mr. Francis).
- F. Expenditure Report - separate handout or verbal report (Ms. Gervase).
- G. Case Status Report - separate handout (Ms. Gervase).
- H. *Gloria Kilian, dba Kilian's Termite and Pest Control, Co., vs. Structural Pest Control Commission, Case No. C20053438* (Ms. Gervase).
- I. Continuing Education On-line Reporting Tool - Commission's consideration of a C.E. providers complaint. (Messrs. Pulido, Craig, Francis; Ms. Gervase)

**XVIII. Approval of Minutes (Ms. Gervase)**

- A. December 9, 2005 (regular session) Minutes
- B. December 9, 2005 (executive session) Minutes - (emailed to Commissioners on December 30, 2005)
- C. Continuing Education Minutes (Mr. Francis/Mr. Craig)

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

Current Proposed dates

February 10, 2006  
March 10, 2006  
April 14, 2006  
May 12, 2006  
June 9, 2006  
July 14, 2006  
August 11, 2006  
September 8, 2006

**XX. Adjournment**