

**NOTICE OF COMMISSION MEETING
FRIDAY, June 9, 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, 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, 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)

☞ Status of *Proposed* Law and Rule Changes. Also, watch web www.azleg.state.az.us and www.sb.state.az.us

✓ Applicator License Renewal status - Licenses not renewed by May 30 are expired (cannot operate). Must renew before July 29 to avoid retesting. Renew Online Now www.sb.state.az.us

☞ ILT (Initial Licensure Training) courses posted on web site. Registration: 480-ILT-SPCC; 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. Davis, III; Harry** **Ozone Pest Control (Activating Qualifying Party for new business license in "B1" General Pest & Public Health)**

- 2. Perez, Jose G.** **GRO Industries, Inc. (Activating Qualifying Party for new business license in "B3" Right of Way & Weed Control)**

- 3. Geary, Craig S.** **Lake Havasu City (Activating Qualifying Party for new business license in "B3" Right of Way & Weed Control and "B5" Turf & Ornamental Horticulture)**

- 4. Jasones, Michael C.** **Sniper Pest Control (Activating Qualifying Party for new business license in "B1" General Pest & Public Health)**

- 5. Elkins, Ronald F.** **A Touch of Perfection Pest Control, LLC (Activating Qualifying Party for new business license in "B1" General Pest & Public Health)**

- 6. LeDuc, Brian D.** **ELS Maintenance, Inc. (Activating Qualifying Party for new business license in "B3" Right of Way & Weed Control and "B5" Turf & Ornamental Horticulture)**

7. Whitman, Adam M. Northern Arizona Property Maintenance, Inc. (Activating Qualifying Party for new business license in "B3" Right of Way & Weed Control)

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

1. Donahue, John W. Permaguard Termite & Pest Control (Activating Qualifying Party for existing business license in "B1" General Pest & Public Health, "B2" Control of Wood-Destroying Insects, and "B8" Wood-Destroying Insects Inspection)

2. Buechle, Karen S. District Pest Control (Activating Qualifying Party for existing business license in "B2" Control of Wood-Destroying Insects and "B8" Wood-Destroying Insects Inspection)

3. Rojahn, III; John R. Desert Hills Golf Club (Activating Qualifying Party for existing business license in "B3" Right-of-Way & Weed and "B5" Turf & Ornamental Horticulture)

4. Salcido, Jenifer R. Younger Brothers Pretreat & Home Services, LLC (Activating Qualifying Party for existing business license "B8" Wood-Destroying Insects Inspection)

5. Gielow, Ryan R. Gielow Exterminating Group (Activating Qualifying Party for existing business license "B3" Right of Way & Weed Control)

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. Badger, Matthew S. “B1” (General Pest & Public Health)
2. Hageman, Edward “B9” (Aquatic Pest Control)
3. Snyder, David A. “B3” (Right of Way & Weed Control)
and “B5” (Turf & Ornamental Horticulture)
4. Mazeika, Anthony J. “B1” (General Pest & Public Health),
“B2” (Control of Wood-Destroying Insects) and “B8” (Wood-Destroying Insect Inspection)
5. Ford, Jeffrey L. “B2” (Control of Wood-Destroying Insects) and “B8” (Wood-Destroying Insect Inspection)
6. Bustos, Jr.; Abel J. “B2” (Control of Wood-Destroying Insects)
7. Connors, Michael T. “B3” (Right of Way & Weed Control)
8. Buechner, John E. “B3” (Right of Way & Weed Control)
and “B5” (Turf & Ornamental Horticulture)
9. McMillan, Sean A. “B1” (General Pest & Public Health)
10. Davis, Steven L. “B8” (Wood-Destroying Insect Inspection)
11. Whitmarsh, Jason J. “B1” (General Pest & Public Health)

- 12. Pitts, Ronnie H. "B4" (Fumigation)
- 13. Denny, Benjamin J. "B1" (General Pest & Public Health)
- 14. Case, Eric L. "B3" (Right of Way & Weed Control),
"B5" (Turf & Ornamental Horticulture)
and "B9" (Aquatic Pest Control)
- 15. Denny, Daniel J. "B1" (General Pest & Public Health)
- 16. Toscano, Eric J. "B1" (General Pest & Public Health),
"B2" (Control of Wood-Destroying
Insects) and "B8" (Wood-Destroying
Insect Inspection)

D. Business License Name Change Requests

- 1. Ecolab Pest Elimination Division to Ecolab
- 2. English Agronomics to Applied Agronomics

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. Gibson, Michael "B3" (Right of Way & Weed Control)
and "B5" (Turf & Ornamental
Horticulture)

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

None

C. Applications for Qualifying Party License

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. No Bugz of Arizona (BL)/Jeffrey Slingluff (QP) - Case # 2005-087 (Mr. Craig)

This complaint contains allegations that from 3-05 to 7-05, Qualifying Party Jeffrey Slingluff performed pest management services and issued Wood Destroying Insect Inspection Reports (WDIIRs) without holding an applicator license (applicator license expire in 5-03). In 6-05, the SPCC mailed Mr. Slingluff a letter stating the requirement to have an applicator license if he was performing pest management activities. Mr. Slingluff obtained a new applicator license in 8-05.

The following proposed resolution was reached:

1. That **No Bugz of Arizona, BUS LIC #8174** 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 § 32-2324(A) (WDIIRs completed by person without an applicator license); and A.R.S § 32-2325(4) (Pesticides applied by person

without an applicator license) (due to A.A.C. R4-29-104 (Joint Responsibility)).

2. That **Jeffrey Slingluff, QP LIC # 8187** be issued an **Administrative Warning and pay a \$100.00 Civil Penalty and take 1 hour of continuing education (CE) in the category of Laws (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), via A.R.S § 32-2324(A) (Completed WDIIIRs without holding an applicator license) and A.R.S § 32-2325(4) (Applying pesticides without holding an applicator 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. R & R Pest Control (BL)/Roland Jameson (QP) - Case # 2005-093 (Mr. Craig)

This complaint contains allegations that in the Spring of 2005, Roland Jameson (Qualifying Party) allowed an unlicensed applicator to apply pesticides 3 ½ months beyond the 90-period for licensure. Additionally, the unlicensed applicator failed to provide written notification of the pesticide treatments. The business licensee failed to make and preserve accurate treatment records.

The following proposed resolution was reached:

1. That **R&R Pest Control BUS LIC #3145** 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 rules), via A.A.C. R4-29-302(A) (Applicator applied pesticide without an applicator license), A.A.C. R4-29-305(A) (Failed to provide notification of pesticide treatments) and A.A.C. R4-29-307(A) (Company failed to make and preserve accurate records).
2. That **Roland Jameson QP LIC # 1316** be issued an **Administrative Warning and pay a \$450.00 Civil Penalty (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. 32-2314(G) (Failed to supervise), A.A.C. R4-29-305(A) (Failed to provide notification of pesticide treatments), and A.R.S. § 32-2321(B)(15) (Failed to make and maintain accurate records); and A.R.S. §

32-2325(4) (Applicator applied pesticide without an applicator license), (due to A.A.C. R4-29-104 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. Mansmith Total Maintenance Service, LLC/Robert D. Mansmith (Member) - Case # 2005-052 (Mr. Craig)

This complaint contains allegations that on 10-2-04, Robert D. Mansmith (LLC member and manager) of Mansmith Total Maintenance Service (MTMS) performed general pest management services. MTMS is a "home maintenance" company that provides house sitting/watching services that appear to be for seasonal Arizona residents.

The following proposed resolution was reached:

1. That **Mansmith Total Maintenance and Robert D. Mansmith be issued a Cease and Desist Order** pursuant to A.R.S. § 32-2304(B)(16) (Disciplinary action that can be taken for unlicensed activity), for a violation of A.R.S. § 32-2325(1)(2) (performed pest management without a business license or qualifying party license).

Commission's Options:

1. **Accept** the proposed resolution; or
2. **Reject** the proposed resolution. 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.

D. Eastern Arizona Exterminating (BL)/Joseph Goodman (QP)/Thomas James (APP) - Case # 2005-090 (Mr. Craig)

This complaint contains allegations that on 9-15-05, Thomas James, applicator of Eastern Arizona Exterminating (EAE) performed a pretreatment at a home in Tucson, Arizona. Mr. James failed to complete the pretreat tag left at the site and the company failed to submit the Termite Action Report Form (TARF) for the treatment. The company had false treatment records, and for three months (August, September and

October, 2005), Joseph Goodman (Qualifying Party) completed Wood Destroying Insect Inspection Reports (WDIIRs) without holding an applicator's license. Mr. Goodman acknowledged that he received a letter from the SPCC in 6-05, expressing the requirement to have an applicator license if he was performing pest management activities.

The following proposed resolution was reached:

1. That **Eastern Arizona Exterminating Inc. BUS LIC #2304** be issued an **Administrative Warning and pay a \$100.00 Civil Penalty and complete and submit the TARF addressed in this investigation with TARF and late fees totaling \$16.00 (due within 30 days of the Commission Order)** pursuant to A.R.S. § 32-2321(A), (C)(5) and (C)(11) (Disciplinary action) for a violation of A.R.S § 32-2321(B)(1) (Violating laws/rules), via A.R.S § 32-2321(B)(2) (Making a false or fraudulent record), A.R.S § 32-2324(A) (WDIIRs completed by person without an applicator license), A.A.C. R4-29-408(B) (Failed to complete pretreat tag), A.A.C. R4-29-307(A),(B) and A.A.C. R4-29-408(D) (Incomplete treatment records), and A.A.C. R4-29-417(A). **If the TARF is not fully and timely submitted, and the TARF fees not paid in full by the due date, the business license of Eastern Arizona Exterminating Inc. will be SUSPENDED for thirty (30) days from the due date. If the TARF and TARF fees are not submitted and paid in full, within the thirty-day (30) suspension period, the business license of Eastern Arizona Exterminating Inc. shall be REVOKED on the day after the 30-day suspension.**
2. That **Joseph Goodman QP LIC # 1790** be issued an **Administrative Warning and pay a \$300.00 Civil Penalty (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)(2) (Making a false or fraudulent records), A.A.C. R4-29-408(B) (Failed to complete pretreat tag) (due to A.R.S. § 32-2328 (Joint Responsibility)), and A.R.S § 32-2324(A) (Completed WDIIRs without holding an applicator license).
3. That **Thomas James APP LIC # 951142** be issued an **Administrative Warning and pay a \$100.00 Civil Penalty (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. R4-29-408(B) (Failed to complete pretreat tag).

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. Kino (BL)/John Escobedo (QP) - Case # 2006-011 (Mr. Craig)

This complaint contains allegations that from 1-31-03 to 1-31-06, the Business Licensee only filed 25 Termite Action Report Forms (TARFs) for termite actions it completed. The Business Licensee did not file 968 TARFs.

The following proposed resolution was reached:

1. That **Kino, BUS LIC #2354** be issued an **Administrative Warning**, and file the **968 TARFs** in connection with this complaint (due within 30 days of the Commission Order); and that **Kino and John Escobedo, jointly and severally, pay the TARF fees and late fees totaling \$15,488.00** (due within 120 days of Commission Order (payment of TARF fees and late fees shall consist of no more than four installments of at least \$3,872.00 each, with the payments due within 30, 60, 90 and 120 days of the Commission Order, respectively. Payments shall be made by either cash, money order or cashiers check only) pursuant to A.R.S. § 32-2321(A) and (C) (Disciplinary action) for a violation of A.R.S § 32-2321 (B)(1) (Violating rules), via A.A.C. R4-29-417(A) (Failed to submit TARFs). **If all the TARFs are not fully and timely submitted, and any of the TARF fee and late fee installment payments not paid in full by the respective due date, the business license of Kino will be SUSPENDED for thirty (30) days from the respective due date. If the suspension goes into effect, the remaining TARF fees and late fees become immediately due. If all the TARFs and TARF fees and late fees are not submitted and paid in full, within the thirty-day (30) suspension period, the business license of Kino shall be REVOKED on the day after the 30-day suspension.**

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.

F. Leo's Pest Control (BL)/Robert Thies (QP) - Case # 2006-002 (Mr. Craig)

This complaint contains allegations that for about 30 months cumulatively, between the dates of 9-5-01 and 12-21-05), Robert Thies (Qualifying Party) allowed an unlicensed applicator to apply pesticides without being licensed. Mr. Thies registered an employee as an applicator on 9-5-01, and terminated and rehired him twice. Treatment records indicate that Mr. Thies allowed this unlicensed applicator to perform pesticide applications (with no interruption in employment) from 6-03 to 12-05.

The following proposed resolution was reached:

1. That **Leo's Pest Control, BUS LIC #4106** 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 rules), via A.A.C. R4-29-302(A) (Allowed pesticide applications by an unlicensed applicator).
2. That **Robert Thies, QP LIC #380** be issued an **Administrative Warning, and pay a \$3,000.00 Civil Penalty (due within 180 days of Commission Order (payment of civil penalty shall consist of no more than six installments of at least \$500.00 each, due within 30, 60, 90, 120, 150 and 180 days of the Commission Order, respectively. Payments shall be made by either cash, money order or cashiers check only)**, 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. § 32-2314(G)(Failed to supervise); and A.R.S. § 32-2325(4) (Applying pesticides without an applicator license) (due to A.A.C. R4-29-104 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.

**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)

None

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

A. William Thomas Gage, Applicator License No. 050317 B1 - OAH Case #2005A-056-SPC - SPCC Case #2005-056

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. Guillermo Sotelo, Applicator License No. 040825 - Case No. 2004-120. Mr. Sotelo reports the status of his compliance with criminal probation, employment status and rehabilitation status. Mr. Sotelo was granted a license pursuant to a consent agreement in September 2004.

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. Foley, James John**
- B. Bushong, Brandon Kyle**

XVII. Commission Updates and Reports; Miscellaneous Action Items.

- A. None**
- 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 - separate handout or verbal report (Ms. Gervase).**
- G. Case Status Report - None.**

XVIII. Approval of Minutes and Continuing Education Programs

- A. April 14, 2006 (regular session) Minutes (Ms. Gervase)**
- B. May 12, 2006 (regular session) Minutes (Ms. Gervase)**
- C. March 10, 2006 (executive session) Minutes - previously sent (Ms. Gervase)**
- D. May 12, 2006 (executive session) Minutes - separate handout (Ms. Gervase)**
- E. Continuing Education Program Applicants (Mr. Francis/Mr. Craig)**

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

Current Proposed dates

July 14, 2006

August 11, 2006

September 8, 2006

October 13, 2006

November 9, 2006 (Thursday)

December 8, 2006

January 12, 2007

February 9, 2007

XX. Adjournment