

**NOTICE OF COMMISSION MEETING  
FRIDAY, May 12, 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)**

☞ Status of *Proposed* Law and Rule Changes. Also, watch web [www.azleg.state.az.us](http://www.azleg.state.az.us) and [www.sb.state.az.us](http://www.sb.state.az.us)

✓ Applicator License Renewal status - Renew Online Now [www.sb.state.az.us](http://www.sb.state.az.us)

☞ ILT (Initial Licensure Training) courses posted on web site. Registration: 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. Gorsuch, Charles T.                      Enviro Control, LLC. (Activating Qualifying Party for new business license in "B1" General Pest & Public Health, "B3" Right of Way & Weed Control and "B5" Turf & Ornamental Horticulture)**
  
- 2. Bulkley, Kevin R.                        KB Pest Management (Activating Qualifying Party for new business license in "B1" General Pest & Public Health)**
  
- 3. Dewitt, Christopher H.                Brencon Pest Control Company (Activating Qualifying Party for new business license in "B1" General Pest & Public Health)**
  
- 4. Staron, Paul D.                          Valley Building Inspections, Inc. (Activating Qualifying Party for new business license in "B8" Wood-Destroying Insect Inspection)**
  
- 5. Snyder, Bryce                          EnviroSystems Management, Inc. (Activating Qualifying Party for new business license in "B3" Right of Way & Weed Control)**
  
- 6. Pierce, Sr.; Jesse R.                  Valley East Pest Control, Inc. (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)**
  
- 7. Frink, Clifford W.                      CareFree Weed Control (Activating Qualifying Party for new business license in "B3" Right of Way & Weed Control and "B5" Turf & Ornamental**

Horticulture)

8. Cervantes, Melanie D. Gothic Grounds Management, Inc.  
(Activating Qualifying Party for new business license in "B3" Right of Way & Weed Control and "B5" Turf & Ornamental Horticulture)

9. Winter, Alexander L. Sculptured Earth Resources, LLC.  
(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. Stewart, Charles B. Advocate Pest & Wildlife Specialists  
(Activating Qualifying Party for existing business license in "B2" Control of Wood-Destroying Insects and "B8" Wood-Destroying Insects Inspection)

2. Pannell, Shane D. All Guard Pest Control, LLC.  
(Activating Qualifying Party for existing business license in "B1" General Pest & Public Health)

3. Dobert, Gary K. Terminix (Activating Qualifying Party for existing business license in "B1" General Pest & Public Health, "B2" Control of Wood-Destroying Insects, "B4" Fumigation and "B8" Wood-Destroying Insects Inspection)

4. 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)

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. Kimball, Matthew L.                    “B3” (Right of Way & Weed Control) and “B5” (Turf & Ornamental Horticulture)
2. Whitman, Adam M.                    “B3” (Right of Way & Weed Control)
3. Orr, Robert L.                        “B1” (General Pest & Public Health)
4. Bearden, Jamie M.                    “B1” (General Pest & Public Health)
5. Carey, Donald R.                    “B1” (General Pest & Public Health)
6. Valencia, Randall S.                “B1” (General Pest & Public Health) and “B4” (Fumigation)
7. Grab, Thomas S.                    “B1” (General Pest & Public Health), “B2” (Control of Wood-Destroying Insects) and “B8” (Wood-Destroying Insect Inspection)
8. Weber, Andrew M.                    “B2” (Control of Wood-Destroying Insects) and “B8” (Wood-Destroying Insect Inspection)
9. Stevens, David D.                    “B3” (Right of Way & Weed Control)
10. Harback, Anthony L.                “B3” (Right of Way & Weed Control) and “B7” (Fungi Inspection)

**D. Business License Name Change Requests**

1. Valley East Pest & Termite Control, Inc. to A-Nother Pest Control, Inc.

2. Caseys' Exterminators to Arrow Exterminators, Inc.

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. Connors, Michael T. "B3" (Right of Way & Weed Control)

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. City of Avondale (Unlicensed) - Case # 2005-080 (Mr. Craig)**

This complaint contains allegations that in 4-05, a jail inmate was applying an herbicide at a City of Avondale building. The jail inmate was on a work-release program that allowed her to do minor maintenance. However, she applied the herbicide because she was instructed by one of the City's supervisors to apply the product. The product was mixed by the supervisor and handed to the inmate. Inmates are prohibited from handling pesticides. The City of Avondale's Risk Management Department has since removed the herbicide from the property and has taken steps to ensure only licensed applicators perform this work.

**SPCC Staff recommends that this complaint be dismissed.**

**Commission's Options:**

1. **Accept** staff's recommendation to dismiss;
2. Send the matter to **settlement conference** based on stated factors and rationale; or
3. Send the matter to **hearing** based on stated factors and rationale.

**B. Irvin D. Smith Pest Control (BL)/Irvin Smith (QP)/Kyle Josephson (APP) - Case # 2005-091 (Mr. Craig)**

This complaint contains allegations that Irvin D. Smith Pest Control (IrvinPC) applicator Kyle Josephson performed pest control services from 6/04 to 4/05 without having a current applicator license. Mr. Josephson concealed his license expiration from IrvinPC. Qualifying Party Irvin Smith did not ensure Mr. Josephson was licensed because he had no reason to doubt that Mr. Josephson renewed his applicator license, since he had been employed for more than five years as a licensed applicator. Mr. Josephson obtained a new applicator license on 4/8/05.

**The following proposed resolution was reached:**

1. That **Irvin D. Smith Pest Control, BUS LIC #2255** 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), to wit, A.A.C. R4-29-302 (Allowing an unlicensed applicator to apply pesticide).

2. That **Irvin Smith, QP LIC #418** be issued an **Administrative Warning and pay a \$100.00 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(B)(4) (Applying pesticides without an applicator license) (due to A.R.S. § 32-2328(A) (Joint Responsibility)).

3. That **Kyle Josephson, APP LIC #010361** be issued an **Administrative Warning and pay a \$1,000.00 Civil Penalty (due within 60 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(B)(4) (Applying pesticides without 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.

#### **C. Uni-Tech (BL)/Steven Wells (QP)/James Price (APP) - Case # 2005-092 (Mr. Craig)**

This complaint contains allegations that on 4/19/05, Uni-Tech applicator James Price failed to note conditions conducive (earth to wood contact and excessive moisture) on a Wood Destroying Insect Inspection Report (WDIIR) for the sale of a home located in Scottsdale, Arizona. Also noted is that the company name on the WDIIR was not the name as registered with the Commission. Additionally, the WDIIR used by Uni-Tech contained pre-printed information in the box marked Inaccessible Areas.

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

1. That **Uni-Tech, BUS LIC #5526** 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. R4-29-413(A)(12) (Failed to note conditions conducive) (due to A.R.S. § 32-2328(A) (Joint Responsibility)), A.R.S. § 32-2324(C) (Responsible for the accuracy of the inspection), A.A.C. R4-29-413(1) (WDIIR did not accurately list company name) and A.A.C. R4-29-207(A) (Failed to use company name as registered with the Commission).

2. That **Steven Wells, QP LIC #1956** be issued an **Administrative Warning and pay a \$100.00 Civil Penalty and obtain 1 additional hour of Continuing Education (separate from that which is required for license renewal) in the category of termite inspections (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 rules), to wit, A.A.C. R4-29-413(A)(12) (Failed to note conditions conducive) (due to A.R.S. § 32-2328(A) (Joint Responsibility)).

3. That **James Price, APP LIC #050298** be issued an **Administrative Warning, pay a \$100.00 Civil Penalty and obtain 1 additional hour of Continuing Education (separate from that which is required for license renewal) in the category of termite inspections (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 rules), to wit, A.A.C. R4-29-413(A)(12) (Failed to note conditions conducive).

**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. Safeguard Pest Control, Inc. (BL)/Jason Workman(QP) - Case # 2005-070 (Mr. Craig)**

This complaint contains allegations that in 8-05, an unlicensed applicator (still within 90 day period to become licensed) was leaving consumers with incorrect notifications of treatments; the pesticide on the record was not the pesticide actually applied by the applicator. The applicator alleged the records were preprinted and the pesticide on the record was not available for use. Investigation revealed that the qualifying party failed to train and supervise the unlicensed applicator, additionally, the business licensee failed to ensure the treatment records were accurate. Jason Workman is no longer the qualifying party and his QP license expired on 12-31-05. He failed to attend the settlement conference.

**The following proposed resolution was reached with the business licensee:**

1. That **Safeguard Pest Control, BUS LIC #8151** be issued an **Administrative Warning and pay a \$700.00 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/rules), to wit, A.R.S. § 32-2321(B)(15) (Failed to make and maintain treatment records), A.A.C. R4-29-307(A)(B) (Failed to include chemical name and percentage on treatment records) and A.A.C. R4-29-305(A) (Failed to provide written notification of chemical applied).

**Commission's Options:**

1. **Accept** the proposed resolution for the **business licensee**, and **Suspend** the qualifying party license of **Jason Workman** for non-payment of renewal fees and dismiss the complaint against him without prejudice [qualifying party license automatically revoked in one year];
2. Return the matter to settlement conference to **Modify** the proposed resolution for the **business licensee** based on stated factors and rationale, and **Suspend** the qualifying party license of **Jason Workman** for non-payment of renewal fees and dismiss the complaint against him without prejudice [qualifying party license automatically revoked in one year]; or
3. **Reject** the proposed resolution and send the matter to hearing as it pertains to the business license; or
4. **Reject** the proposed resolution and send the **ENTIRE** 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. 5 Star Termite & Pest Control, Business License No. 4346- OAH Case # 2004A-121-SPC/SPCC Case # 2004-121**

**B. Jordan Paul Dietz - OAH Case# 2006A-006-SPC/SPCC Case # 2006-006**

**C. Ronald Morales - OAH Case #2005A-043-SPC/SPCC Case # 2005-043**

**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)**

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. O'Dea, Dennis R.**

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

**A. Petition to Make Final Rule re: "New Construction Preventative Treatments" filed by Nisus Corporation - Commission's consideration and ruling on Petition**

- 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 (Ms. Gervase).
- H. Investigating Inquiries and Complaints: compelling attendance at investigative interviews and cooperation with investigations

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

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

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

**Current Proposed dates**

June 9, 2006  
July 14, 2006  
August 11, 2006  
September 8, 2006  
October 13, 2006  
November 9, 2006 (Thursday)  
December 8, 2006  
January 12, 2007

**XX. Adjournment**