



STATE OF ARIZONA

Structural Pest Control Commission

9535 E. Doubletree Ranch Road
Scottsdale, Arizona 85258-5514
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Janet Napolitano
Governor

Lisa Gervase
Executive Director

NOTICE OF COMMISSION MEETING FRIDAY, August 10, 2007, 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: 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, 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.

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)

⇒ **“MyAccount” system** - new licensee information management tool online – lets business and individual licensees update vitals information, review testing history, print renewal forms during renewal processing times, print licenses, allows businesses to add and delete applicator employees, and allows all licensees to reset their passwords - via the website www.sb.state.az.us. More features to come.

⇒ **Applicator License Renewal Process:** Began 4/1/07. Licenses that were not renewed by 6/30/07 are expired and licensee cannot operate. Lists of expired licensees is on website home page, scroll down to Industry Notices. Search current license status on home page, <http://www.sb.state.az.us/PDFDocuments/2007ExpiredApplicatorList.pdf>

⇒ **New Rules** – effective 4/7/07! Website home page, Rules, New.

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

⇒ **SPCC Ten-year performance/sunset audit** conducted May 2006-June 2007: Audit Report to be published soon at <http://www.auditorgen.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 and Activating Qualifying Party License: (Mr. Tolton)

<u>Business</u>	<u>Qualifying Party</u>
1. Fletcher's Termite Control	Jason D. Fletcher "B2" (Control of Wood-Destroying Insects) and "B8" (Wood-Destroying Insect Inspection)
2. Kat's Pest Patrol	Katrina B. Hruska "B1" (General & Public Health Pest Control)
3. Independent Pest Control, LLC.	Jeff S. Loehr "B1" (General & Public Health Pest Control) "B2" (Control of Wood-Destroying Insects) and "B8" (Wood-Destroying Insect Inspection)
4. Blue Diamond Pest Control Company	Teresa M. Kitchens "B1" (General & Public Health Pest Control)
5. Favian Pest Control	Cynthia L. Romero "B1" (General & Public Health Pest Control)

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

<u>Qualifying Party</u>	<u>Business</u>
1. Douglas D. Dykstra	White Mountain Country Club "B3" (Right-of-Way & Weed Control) and "B5" (Turf & Ornamental Horticulture Pest Control)
2. Anthony R. Crothers	Sam the BugMan! "B1" (General & Public Health Pest Control)
3. Jeffrey A. Barnes	Dandee Pest Control "B1" (General & Public Health Pest Control)
4. Paul A. Furman	AJF Engineering, Inc. "B8" (Wood-Destroying Insect Inspection)
5. Joseph R. Wright	TruGreen Landcare, LLC. "B3" (Right-of-Way & Weed Control) and "B5" (Turf & Ornamental Horticulture Pest Control)

6. Reginald E. Moorby

DTR1, LLC. "B5" (Turf & Ornamental Horticulture Pest 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. Ronald T. McCann "B3" (Right-of-Way & Weed Control) and "B5" (Turf & Ornamental Horticulture Pest Control)
2. Richard S. Gragg "B1" (General & Public Health Pest Control), "B2" (Control of Wood-Destroying Insects) and "B8" (Wood-Destroying Insect Inspection)
3. Jedsmond M. Maglanoc "B8" (Wood-Destroying Insect Inspection)
4. Jousty M. Maglanoc "B2" (Control of Wood-Destroying Insects)
5. Deborah A. Jameson "B1" (General & Public Health Pest Control)
6. Cody C. Smith "B1" (General & Public Health Pest Control)
7. Michael P. Wiese "B1" (General & Public Health Pest Control)
8. Michael A. Treanor "B3" (Right-of-Way & Weed Control) and "B5" (Turf & Ornamental Horticulture Pest Control)
9. Glenn M. Reames "B1" (General & Public Health Pest Control)
10. Daniel W. Monson "B5" (Turf & Ornamental Horticulture Pest Control)
11. Gary W. Brown "B3" (Right-of-Way & Weed Control)
12. Jacob A. Johnson "B5" (Turf & Ornamental Horticulture Pest Control)
13. Brian R. Nelson "B5" (Turf & Ornamental Horticulture Pest Control)
14. Stephen P. Marchal "B8" (Wood-Destroying Insect Inspection)
15. Christopher M. Winder "B1" (General & Public Health Pest Control)

D. Business License Name Change Requests: (Mr. Tolton)

None

E. Applicants for new Applicator Licenses: “(See list on website under agenda).”
(Mr. Tolton)

1. Licenses to be Issued for completed applications.

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 or Renewal: (Mr. Tolton)

1. Gloria L. Kilian “B1” (General & Public Health Pest Control)
2. Timothy S. Hendricks “B1” (General & Public Health Pest Control)
3. Gary D. Slone “B3” (Right-of-Way & Weed Control) and
“B5” (Turf & Ornamental Horticulture Pest Control)

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

None

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

1. Thomas J. Marshall “B3” (Right-of-Way & Weed Control) and
“B5” (Turf & Ornamental Horticulture Pest Control) (Application for Renewal of expired Qualifying Party License)
2. Michael S. Robinson “B3” (Right-of-Way & Weed Control) and
“B5” (Turf & Ornamental Horticulture Pest Control) (Application for Renewal of expired Qualifying Party License)

D. Business License Name Change Requests: (Mr. Tolton)

None

VII. Complaints: (Mr. Craig)

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 notice 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 issue a Cease and Desist order and/or impose 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) for unlicensed activity involving other than weed control. 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. Bug Snuffers Pest & Termite Control (BL), Colleen O'Brien (QP), Linda Merklin (APP) - Case No. 2007-019

This complaint contains allegations that in October and November 2006, applicator Linda Merklin failed to provide 72-hour notice and immediate notice of pesticide applications when performing pest control services at various schools in the St. John's Unified School District in St. Johns, Arizona.

The following proposed resolution was reached:

1. That **Bug Snuffers Pest & Termite Control, BUS LIC #5123**, 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. § 32-2307(A)(B) (Applicator failed to notify a school at least 72 hours in advance of a pesticide application and failed to provide immediate notification prior to application) due to A.R.S. § 32-2308 (Joint Responsibility).
2. That **Colleen O'Brien, QP LIC #1546**, be issued an **Administrative Warning and a \$400.00 Civil Penalty and obtain 2 hours of continuing education (separate from that required for license renewal) in the categories Safety and Laws (due within 30 days**

of the entered date 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. § 32-2307(A)(B) (Applicator failed to notify a school at least 72 hours in advance of a pesticide application and failed to provide immediate notification prior to application) due to A.R.S. § 32-2308 (Joint Responsibility).

3. That **Linda Merklin, APP LIC #980779,** be issued an **Administrative Warning and a \$200.00 Civil Penalty and obtain 2 hours of continuing education (separate from that required for license renewal) in the categories Safety and Laws (due within 30 days of the entered date 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. § 32-2307(A)(B) (Failed to notify a school at least 72 hours in advance of a pesticide application and failed to provide immediate notification prior to application).

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. Bugs R' Us Termite and Pest Control (BL), Jess Johnson, Jr. (QP), Michael Rogowski, Sr. (APP) - Case #2007-024

This complaint contains allegations that on 9-28-06, applicator Michael Rogowski issued a Wood Destroying Insect Inspection Report (WDIIR), but failed to note evidence of wood destroying organisms, evidence of previous treatment, evidence of damage and evidence of conditions conducive to infestation, which are required to be documented. Mr. Rogowski stated his purpose of issuing the WDIIR was solely to report dry rot, which another termite company failed to note. Qualifying Party Jess Johnson Jr. did not have training documentation because Mr. Rogowski was trained by his previous employer. The previous employer was the company that—according to Mr. Rogowski—failed to note the dry rot.

The following proposed resolution was reached:

1. That **Bugs R' Us Termite & Pest Control, BUS LIC #8514** 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), via A.R.S. § 32-2324(C) (Inspection report did not list evidence of infestation), A.R.S. § 32-2324(A) (Failed to keep and provide training records); and A.A.C. § R4-29-413(A) (8)(9)(11)(12) (Failed to note evidence of past or present infestation, damage, previous treatment and conditions conducive) due to A.R.S. § 32-2308 (Joint Responsibility).

2. That **Jess Johnson, QP LIC #30007** be issued an **Administrative Warning and obtain 2 hours of continuing education (CE) in the category of WDIIRs and Laws (separate from the CE required for license renewal) (due within 30 days of the entered date 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. § R4-29-413(A) (8)(9)(11)(12) (Failed to note evidence of past or present infestation, damage, previous treatment and conditions conducive) due to A.R.S. § 32-2308 (Joint Responsibility).

3. That **Michael Rogowski, Sr., APP LIC #980309** be issued an **Administrative Warning and obtain 3 hours of continuing education (CE) in the category of WDIIIRs, Termites and Laws (separate from the CE required for license renewal) (due within 30 days of the entered date 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. § R4-29-413(A) (8)(9)(11)(12) (Failed to note evidence of past or present infestation, damage, previous treatment and 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.

C. Bull's Eye Pest & Termite Control (BL), Brian Masherella (QP) - Case No. 2007-070

This complaint contains allegations that Bull's Eye Pest & Termite Control failed to file 40 TARFs. Additionally, the business licensee did not maintain copies of 13 Wood Destroying Insect Inspection Reports (WDIIRs) for the required five years. This was attributed to a temporary employee's error. On 4-10-07, the business licensee submitted the TARFs and paid the TARF fees and late fees.

The Rules identify the *business licensee* as the responsible party for maintaining the termite related records and filing TARFs. Therefore, staff recommends that the complaint be dismissed against Brian Masherella's qualifying party license.

The following proposed resolution was reached:

That **Bull's Eye Pest & Termite Control, BUS LIC #2043** 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), A.R.S. § 32-2324(B) (Failing to retain a copy of the WDIIIRs) and A.A.C. § R4-29-417(A) (Failed to submit TARFs for termite projects completed).

Commission's Options:

1. **Accept** the proposed resolution and dismiss against Brian Masherella's qualifying party license;
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. Daniel Oliver (APP) - Case No. 2007-008

This complaint contains an allegation that Daniel Oliver misrepresented a fact to obtain his applicator license in 2005. On 11-29-05, Mr. Oliver submitted an Applicator License Application and marked “no” when asked “Have you ever been convicted of a felony?”. He obtained his license on 1-20-06. However, on 5-2-06, SPCC staff found evidence of a possible felony conviction involving Mr. Oliver. When interviewed, Mr. Oliver admitted to being arrested for check forgery in 2004 and serving 2 years of probation, which was to expire in March 2007. SPCC staff requested more information regarding the disposition of the felony charge. However, Mr. Oliver never submitted the information. As a result, Mr. Oliver’s renewal application was never processed and his applicator license expired on 5-31-06. A complaint was then mailed to Mr. Oliver, but he has failed to respond.

Staff’s Recommendation: Dismiss the complaint without prejudice, because he cannot renew his license and if he applies again, his application would be flagged for further review.

E. Adam Lee Cary (APP) - Case No. 2007-011

This complaint contains an allegation that Adam Cary in 11-05, was convicted of a felony. Mr. Cary accurately marked “yes” on his 2006 license renewal application. SPCC staff asked for information regarding the 11-05 felony. However, Mr. Cary never submitted the information. As a result, Mr. Cary’s renewal application was never processed and his applicator license expired on 5-31-06. Mr. Cary’s current whereabouts are unknown.

Staff’s Recommendation: Dismiss the complaint without prejudice, because he cannot renew his license and if he applies again, his application would be flagged for further review.

F. Michael Echols (APP) - Case No. 2007-027

This complaint contains allegations that on 12-20-06, applicator Michael Echols did not properly perform a pretreatment in Tucson, Arizona. The construction type was a post-tension monolithic slab. Mr. Echols should have applied 210.78 gallons; however, he applied 181.7 gallons (short by 29.08 gallons). The evidence indicates that the Qualifying party did properly train Mr. Echols how to perform pretreatments.

Mr. Echols failed to respond to the complaint and did not attend the settlement conference. His applicator license expired on 5-31-07.

Staff’s Recommendation: Dismiss the complaint without prejudice and Suspend the applicator license for nonpayment of renewal fees (revocation one year later automatically), even though he cannot renew this expired license. Therefore, there will be a record of the violation in case Mr. Echols applies for a license in the future.

**G. Poor Boy Termite Control, Inc. (BL), Alan Robinette (QP), Joe Pulley, Jr. (APP)
- Case No. 2007-033**

This complaint contains allegations that Poor Boy Termite Control, Inc. applicators were performing post-construction termite treatments, with Premise 75 termiticide, at less than 4 gallons per 10 linear feet. Based on the label language, SPCC Staff initially believed this to be contrary to label directions and therefore a violation of Arizona rule. However, after meeting with the licensees to discuss the facts and circumstances of this matter, and conferring the United States Environmental Protection Agency, Region 9, about the interpretation of the label directions, staff does not believe the licensees violated the label directions.

Staff's Recommendation: Dismiss Complaint

H. Robert Espinoza (APP) - Case No. 2006-067

This complaint contains allegations that on 4-25-06, licensed applicator Robert Espinoza charged a consumer \$400.00 and performed a termite post construction treatment in the interior of a home located in Glendale, Arizona. Mr. Espinoza also issued a termite treatment proposal to the consumer falsely representing himself as "1st Response Termite and Pest Control". Mr. Espinoza does not hold a business license or a qualifying party license and "1st Response Termite and Pest Control" is not a company licensed by the SPCC. Mr. Espinoza did not respond to the complaint or attend the settlement conference. His applicator license expired 5-31-07.

Staff's Recommendation: Dismiss the complaint without prejudice and Suspend the applicator license for nonpayment of renewal fees (revocation one year later automatically), even though he cannot renew this expired license. Therefore, there will be a record of the violation in case Mr. Espinoza applies for a license in the future.

I. Thomas James (APP) - Case No. 2006-062

This complaint contains an allegation that Thomas James failed to comply with a Commission Order. The Commission Order, entered 8-14-06, required Mr. James to pay a \$100.00 Civil Penalty and obtain 5 hours of continuing education (CE) in the category of pretreatments, calibration and measurements (separate from that required for annual license renewal) within 30 days from the entered date. Mr. James paid the civil penalty but did not obtain the CE.

Mr. James did not respond to the complaint or attend the settlement conference. His license expired on 5-31-07.

Staff's Recommendation: Dismiss the complaint without prejudice and Suspend the applicator license for nonpayment of renewal fees (revocation one year later automatically), even though he cannot renew this expired license. Therefore, there will be a record of the violation in case Mr. James applies for a license in the future.

J. Thomas Schuster (APP) - Case No. 2006-044

This complaint contains allegations that on 6-28-06, Thomas Schuster performed a pest control application in Glendale, Arizona, without a qualifying party license or business

license. Mr. Schuster did not respond to the complaint or attend the settlement conference. His applicator license does not expire until 5-31-08.

Commission's Option: Send the matter to hearing.

K. Eastern Arizona Exterminating, Inc. (BL), Joseph Goodman (QP), Thomas James (APP) - Case No. 2007-005

On 7-16-07, a settlement conference was conducted at the State of Arizona Structural Pest Control Commission (SPCC). Compliance Specialist Vince Craig represented the SPCC. Joseph Goodman (corporate president and qualifying party) represented the business license and his qualifying party license. Thomas James did not attend.

Eastern Arizona Exterminating, Inc. (BL), Joseph Goodman (QP), Thomas James (APP) - Case No. 2007-005

This complaint contains allegations that on 8-16-06, Thomas James did not properly perform a pretreatment in Pima, Arizona. The slab-type was a floating slab. Mr. James should have applied 356.56 gallons. However, Mr. James applied 150 gallons, thus shorting the site by 206.56 gallons (57.93%). The business licensee and qualifying party did not have any documentation verifying Mr. James' training. Additionally, Joseph Goodman performed a pretreatment but placed a pretreatment tag belonging to a different site. Mr. Goodman stated he was aware he accidentally placed the wrong tag on the site, but did not go back to the property to correct it. Mr. Goodman occasionally delivered pretreatment tags to the builder after treating, rather than attaching the tag to the site. Additionally, the information on the pretreat tags for the treatments completed by Mr. James and Mr. Goodman contained information that conflicted with the company's records and the TARFs. For one of the pretreatments involved in this investigation, a TARF was not submitted until 7-19-07.

Mr. James did not respond to the complaint. Mr. James' applicator licensed expired 5-31-07. He has not responded to notices for a settlement conference.

Staff recommends that this complaint be dismissed without prejudice against Thomas James and his applicator license be suspended for nonpayment of renewal fees (revocation one year later automatically), even though he cannot renew this expired license. Therefore, there will be a record of the violation in case Mr. James applies for a license in the future.

The following proposed resolution was reached:

1. That **Eastern Arizona Exterminating, Inc., BUS LIC #2304**, be issued an **Administrative Warning**, pay a **\$600.00** civil penalty and extend the **five-year responsibility for retreatments to six years**, send a **certified letter to the owner of the property, informing them of the extension and copy the SPCC with the letter and the mailing certification number (due within 30 days of the entered date of the Commission Order)**, pursuant to A.R.S. § 32-2321(A)(C) (Disciplinary action) for a violation of A.R.S. § 32-2321(B)(1) (Violating rules), via A.A.C. § R4-29-408(D)(Business licensee had incomplete termite records) and A.A.C. § R4-29-417(A) (Business Licensee

failed to file a TARF within 30 days); and A.A.C. § R4-29-402 (Applicator applied less than the required gallons to the pretreat site), A.A.C. § R4-29-408(A) (Qualifying party failed to attach a pretreat tag for each pretreatment performed), and A.A.C. § R4-29-408(B)(C) (Applicator failed to properly complete the pretreat tag) due to A.R.S. § 32-2308 (Joint Responsibility).

2. That **Joseph Goodman, QP LIC #1790**, be issued an **Administrative Warning, pay a \$300.00 civil penalty and obtain 1 hour of continuing education (separate from that required for license renewal) in the category of pretreatments, calculations or measurements (due within 30 days of the entered date of the Commission Order)**, pursuant to A.R.S. § 32-2321(A)(C) (Disciplinary action) for a violation of A.R.S. § 32-2321(B)(1) (Violating rules), via A.A.C. § R4-29-408(A) (Qualifying Party Failed to attach a pretreat tag for each pretreatment performed); and A.A.C. § R4-29-402 (Applicator applied less than the required gallons to the pretreat site) and A.A.C. § R4-29-408(B)(C) (Applicator failed to complete the pretreat tag) due to A.R.S. § 32-2308 (Joint Responsibility).

Commission's Options:

1. **Accept** the proposed resolution regarding the business license and qualifying party license and to dismiss without prejudice against Thomas James and suspend his license due to non-payment of renewal fees (automatic revocation one year later);
2. Return the matter to settlement conference to **Modify** the proposed
3. **Reject** the proposed resolution and send the matter to hearing.

L. Frontline Exterminating L.L.C. (BL), Darren Kirkham (QP), Joshua Seagle (APP) - Case No. 2007-020

This complaint contains allegations that on 10-28-06, Joshua Seagle power-sprayed a garage, which caused a non-target contamination. When the consumer asked Mr. Seagle to leave, he failed to leave a record of the application. Evidence indicates a lack of employee supervision on the part of the qualifying party. The business licensee and qualifying party licensee responded to the complaint almost a month late, and Mr. Seagle did not respond to the complaint at all. Mr. Seagle's applicator license expired on 5-31-07 and he is no longer working in the pest control industry.

The following proposed resolution was reached:

1. That **Frontline Exterminating, BUS LIC #8406**, be issued an **Administrative Warning** pursuant to A.R.S. § 32-2321(A)(C) (Disciplinary action) for a violation of A.R.S. § 32-2321(B)(1) (Violating rules), via A.A.C. § R4-29-107(A) (Failed to respond to the complaint within 20 days); and A.A.C. § R4-29-305(A) (Failed to provide written notice of the pesticide treatment), and A.A.C. § R4-29-301(A) (Applied pesticides in a manner that resulted in a non-target contamination) due to A.R.S. § 32-2308 (Joint Responsibility).

2. That **Darren Kirkham, QP LIC #8399**, be issued an **Administrative Warning, pay a \$100.00 civil penalty and obtain 1 hour of continuing education (separate from that required for license renewal) in category of Safety, Equipment or Application**

Techniques (due within 30 days of the entered date of the Commission Order) pursuant to A.R.S. § 32-2321(A)(C) (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 properly supervise) and A.A.C. § R4-29-107(A) (Failed to respond to the complaint within 20 days); and A.A.C. § R4-29-305(A) (Failed to provide written notice of the pesticide treatment) and A.A.C. § R4-29-301(A) (Applied pesticides in a manner that resulted in a non-target contamination) due to A.R.S. § 32-2308 (Joint Responsibility).

3. That **Joshua Seagle, APP LIC #060780**, be issued an **Administrative Warning and pay a \$100.00 civil penalty (due within 30 days of the entered date of the Commission Order)** pursuant to A.R.S. § 32-2321(A)(C) (Disciplinary action) for a violation of A.R.S. § 32-2321(B)(1) (Violating rules), via A.A.C. § R4-29-305(A) (Failed to provide written notice of the pesticide treatment), A.A.C. § R4-29-301(A) (Applied pesticides in a manner that resulted in a non-target contamination) and A.A.C. § R4-29-107(A) (Failed to respond to the complaint).

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;
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)

A. Nathan A. Estrella - Case No. 2006-065 - Applicator Licensee No. 020197 (B2 Issued 01/07/2004) (Expired 05/31/2007) (B3 Issued 03/04/2002) (Expired 05/31/2007) – Commission consideration of Suspension of Nathan A. Estrella's Applicator License for nonpayment of renewal fees.

B. Dusty R. Dukeman - Case No. 2006-064 - Applicator Licensee No. 060626 B2 (Issued 06/24/2006) (Expired 05/31/2007) – Commission consideration of Suspension of Dusty R. Dukeman's Applicator License for nonpayment of civil penalties and renewal fees.

C. Wayne F. Woods - Case No. 2006-016 - Applicator Licensee No. 030748 B1 (Issued 10/18/2003) (Expired 05/31/2007) – Commission consideration to dismiss without prejudice and Suspension of Wayne F. Woods Applicator License for nonpayment of renewal fees because he did not sign the Consent Agreement.

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. Verstegen)

None

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

None

XIV. Consideration of Informal Settlement Conference proposed resolutions [for Appealable Agency Actions such as License Denials, Disciplinary actions taken without a prior hearing, and Cease & Desist/civil penalties for unlicensed activity]. (Ms. Gervase)

None

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

A. Joseph D. Wilkerson, Applicator License No. 060328 – Case No. 2006-003. Mr. Wilson reports the status of his compliance with criminal probation, employment status and rehabilitation status. Mr. Wilkerson was granted a license pursuant to a consent agreement in February 2006.

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. Derick J. Fountain

B. Ruben R. Ortiz, Jr.

C. Armando V. Hernandez

D. Kevin R. Conlin

E. Richard La Placa

F. Matthew S. McKinney

G. Roberto Chavez

XVII. Commission Updates and Reports; Miscellaneous Action Items.

A. Commission training (previous handout on 2/9/07)

1. Review of commission materials with staff and address Commission's questions about the materials: (Mr. Tolton, Mr. Francis, Mr. Craig, Ms. Gervase)
2. Commissioner duties, conflicts of interest, open meeting law, grounds to consider when reviewing license applications, etc. (Ms. Verstegen)

B. Complaint Status Log: (Mr. Francis/Mr. Craig)

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

D. Expenditure Report: (Ms. Gervase)

E. Case Status Report (Every other month - last report 06/08/07): (No document-separate handout) (Ms. Gervase)

F. Commission discussion/decision: Procedure to follow when giving direction to staff regarding tasks and priorities. (No document)

G. Commission discussion/decision: Draft Substantive Policy Statement 2007-001 re: Commission's policy about issuing licenses to persons who use, offer to use, advertise to use, solicit to use, or perform structural pest control using a device; and for persons who make recommendations regarding structural pest control.

XVIII. Approval of Minutes and Continuing Education Programs

A. June 8, 2007 (regular session) Minutes (No document-separate handout) (Ms. Gervase)

B. July 13, 2007 (regular session) Minutes (No document-separate handout) (Ms. Gervase)

C. Continuing Education Program Applicants "(See list on website under agenda)". (Mr. Craig)

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

Current Proposed dates

September 14, 2007

October 12, 2007

November 9, 2007

December 14, 2007

January 11, 2008

February 8, 2008

March 14, 2008

April 11, 2008

May 9, 2008

June 13, 2008

XX. Adjournment