



STATE OF ARIZONA

Structural Pest Control Commission

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

Janet Napolitano
Governor

Lisa Gervase
Executive Director

NOTICE OF COMMISSION MEETING FRIDAY, July 13, 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: (Ms. Villela)

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

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

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

⇒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, License Search.www.sb.state.az.us/RenewEZ

⇒“**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.

⇒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

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. Hatch Pest Control	Clint R. Shafer ("B1" General & Public Health Pest Control)
2. Southwest Green Solutions	John P. English ("B3" Right-of-Way & Weed Control and "B5" Turf & Ornamental Horticulture Pest Control)
3. Desert Dwellers Pest Control	Robert L. Orr ("B1" General & Public Health Pest Control)
4. Ernie's Exterminators, LLC.	Ernesto B. Magana ("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. Jared P. Peterson	Home Guard Pest Control ("B1" General & Public Health Pest Control)
2. John N. Beebe	Atomic Pest Control ("B1" General & Public Health Pest Control)
3. Scott A. P. Ford	Ford Pest Control ("B1" General & Public Health Pest Control)
4. Jason M. Rogers	Yuma Golf & Country Club ("B3" Right-of-Way & Weed Control and "B5" Turf & Ornamental Horticulture Pest Control)
5. William G. L. Beard	Palo Verde Landscape ("B3" Right-of-Way & Weed Control and "B5" Turf & Ornamental Horticulture Pest Control)
6. Brian S. Doherty	Irish Pest Control, LLC. ("B5" Turf & Ornamental Horticulture Pest Control)
7. Brian W. Stadler	ELS Maintenance, Inc. ("B3" Right-of-Way & Weed Control and "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. John F. Roots, III "B1" (General & Public Health Pest Control)
2. Jessie Hagan "B3" (Right-of-Way & Weed Control) and "B5" (Turf & Ornamental Horticulture Pest Control)
3. Paul K. Sexton, Jr. "B1" (General & Public Health Pest Control)
4. John M. Weber "B2" (Control of Wood-Destroying Insects) and "B8" (Wood-Destroying Insect Inspection)
5. Thomas R. Alvarado "B3" (Right-of-Way & Weed Control)
6. Brian R. McClaskey "B1" (General & Public Health Pest Control)
7. Glenn K. Hardy "B1" (General & Public Health Pest Control)
8. Michael P. Juliano "B1" (General & Public Health Pest Control)
9. Marc A. Watts "B1" (General & Public Health Pest Control)
10. Mark E. Mell "B1" (General & Public Health Pest Control) and "B5" (Turf & Ornamental Horticulture Pest Control)
11. Timothy S. Hendricks "B1" (General & Public Health Pest Control)
12. Steven R. Chrismer "B5" (Turf & Ornamental Horticulture Pest Control)
13. Darryl A. Ogden "B1" (General & Public Health Pest Control)
14. Jonathan D. Gibson "B3" (Right-of-Way & Weed Control) and "B5" (Turf & Ornamental Horticulture Pest Control)
15. Randy G. Darris "B2" (Control of Wood-Destroying Insects) and "B8" (Wood-Destroying Insect Inspection)
16. Edward L. Owca "B1" (General & Public Health Pest Control)
17. Damon L. Stafford "B1" (General & Public Health Pest Control)
18. Frank A. Sanchez "B1" (General & Public Health Pest Control)
19. Michael R. Ball, Jr. "B1" (General & Public Health Pest Control)

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

None

E. Applicants for new Applicator Licenses: (Mr. Tolton)

1. Licenses to be Ratified that were issued since 9/17/03 law change

2. Licenses to be Issued for completed applications in the current month

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. Phil Elmore Wendel | “B1” (General & Public Health Pest Control),
“B2” (Control of Wood-Destroying Insects),
“B5” (Turf & Ornamental Horticulture Pest Control, and “B8” (Wood-Destroying Insect Inspection) |
| 2. Frank A. Sanchez | “B1” (General & Public Health 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. Dane J. Deal | “B1” (General & Public Health Pest Control) |
|---------------------------------|---|

2. Tony W. Seddon

“B1” (General & Public Health Pest Control),
“B2” (Control of Wood-Destroying Insects),
“B5” (Turf & Ornamental Horticulture Pest
Control, and “B8” (Wood-Destroying Insect
Inspection) (**Possible Application for
Renewal of expired Qualifying Party
License** – no application received by cut-off
date)

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. [Desert Shadows Landscape, Inc. \(Unlicensed Company\)/Ramon Martinez \(President/CEO \(Unlicensed Applicator\) – Case No. 2007-003](#)

This complaint contains allegations that on 8-15-05, a consumer in Chandler, Arizona, hired Ramon Martinez to perform a fungicide treatment to two of her palm trees. On 6-29-06, the consumer telephoned the SPCC to report what she believed to be possible damage to her palm trees. The specific site (palm trees) is not on the fungicide label. This constitutes a

misuse of the label. Mr. Martinez does not hold a business license, qualifying party license or an applicator license.

No agreement was reached.

Commission's Options:

Issue a cease and desist order and/or impose a civil penalty of not more than one thousand dollars for the first occurrence jointly and severally to Desert Shadows Landscape, Inc. and Ramon Martinez.

B. Blackhawk Pest Control (BL)/Joseph Latin (QP & APP) – Case No. 2007-012

This complaint contains allegations that on 11-20-06, Joseph Latin applied Termidor pesticide for the control of ants, to the interior of a garage in Scottsdale, Arizona. However, the Termidor label is labeled for exterior applications for ant control only. Mr. Latin also failed to document the target pest and purpose of service on some of his treatment records.

The following proposed resolution was reached:

1. That **Blackhawk Pest Control, BL #5448**, 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.A.C. § R4-29-307(B)(3) (Incomplete treatment records / Target pest missing); and A.R.S. § 32-2321(B)(4) (Misuse of pesticide by applying to an area contrary to label instructions), due to A.R.S. § 32-2308 (Joint Responsibility).
2. That **Joseph Latin, QP LIC #1942**, be issued an **Administrative Warning and obtain 2 hours of continuing education (CE) in the category of Laws and Pesticide Safety (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 laws), via A.R.S. § 32-2321(B)(4) (Misuse of pesticide by applying to an area contrary to label instructions) due to A.R.S. § 32-2308 (Joint Responsibility).
3. That **Joseph Latin, APP LIC #980955**, be issued an **Administrative Warning and obtain 2 hours of continuing education (CE) in the category of Pesticide Labels (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 laws), via A.R.S. § 32-2321(B)(4) (Misuse of pesticide by applying to an area contrary to label instructions).

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. Carl's Termite & Pest Control (BL)/Carl Wade Bell (QP)/ Carl Earl Bell (APP) - Case No. 2007-012

This complaint contains an allegation that on 11-15-06, applicator Carl Earl Bell (Earl) did not properly perform a pretreatment in Coolidge, Arizona. The construction type was a floating slab. Earl should have applied 351.43 gallons; however, he applied 270 gallons (short by 81.43 gallons). The evidence indicates that Qualifying party Carl Wade Bell (Wade) did not train Earl how to perform pretreatments.

The following proposed resolution was reached:

1. That **Carl's Termite & Pest Control, BUS LIC #5005**, be issued an **Administrative Warning, Pre-report all termite pretreatments for 3 months, extend the five year responsibility for termite occurrences to six years, send a certified letter to the resident, associated with the property, informing them of the extension and copy 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) (Disciplinary action) for a violation of A.R.S. § 32-2321(B)(1) (Violating rules), via A.A.C. § R4-29-301(A) and A.A.C. § R4-29-407(C) (Failed to established the critical barriers as required by Rule and Label), A.A.C. § R4-29-402 (Incorrect quantity, strength and dosages) and A.A.C. § R4-29-408(C) (Incorrect information on the pretreatment tag) due to A.R.S. § 32-2308 (Joint Responsibility).
2. That **Carl W. Bell, QP LIC #1222**, be issued an **Administrative Warning, pay a \$100.00 Civil Penalty and obtain 3 hours of continuing education (separate from that required for license renewal) in the category of Laws, QP responsibilities/duties or Record Keeping (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/rules), via A.R.S. § 32-2314(G) (Failed to ensure proper training); and A.A.C. § R4-29-301(A) and A.A.C. § R4-29-407(C) (Failed to established the critical barriers as required by Rule and Label), A.A.C. § R4-29-402 (Incorrect quantity, strength and dosages) and A.A.C. § R4-29-408(C) (Incorrect information on the pretreatment tag) due to A.R.S. § 32-2308 (Joint Responsibility).
3. That **Carl E. Bell, APP LIC #931173**, be issued an **Administrative Warning, pay a \$100.00 Civil Penalty and obtain 3 hours of continuing education (separate from that required for license renewal) in the category of Measurements, Pretreatments or Calculations (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. § R4-29-301(A) and A.A.C. § R4-29-407(C) (Failed to established the critical barriers as required by Rule and Label), A.A.C. § R4-29-402 (Incorrect quantity, strength and dosages) and A.A.C. § R4-29-408(C) (Incorrect information on the pretreatment 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.

D. Chad Berg (QP)/Carlos Gortariz (APP) - Case No. 2007-017

This complaint contains allegations that on 10-1-06, Carlos Gortariz did not properly perform two pretreatments in Tucson, Arizona. The slab types were post-tension monolithic. Mr. Gortariz should have applied 213.88 gallons and 147.12 gallons, respectively. However, Mr. Gortariz applied 176 gallons and 125 gallons, shorting the sites by 37.88 gallons (25%) and 22.15 gallons (15%), respectively. Qualifying party Chad Berg provided applicators with specific written instructions on how to check for malfunctions with measuring wheels and required all of the applicators to complete a monthly checklist, indicating whether their measuring wheels are functioning properly. Mr. Gortariz submitted a checklist two weeks after the shortage indicating that the wheel was working properly. Additionally, SPCC staff performed measuring tests with Mr. Gortariz and noted no issues with the wheel.

SPCC staff reviewed 154 hours worth of training and supervision on the part of Chad Berg and concluded that the violation was not the result of a lack of training or supervision. **Staff recommends that the complaint be dismissed against his qualifying party license.**

The following proposed resolution was reached:

That **Carlos Gortariz, APP LIC # 060722**, be issued an **Administrative Warning and obtain 2 hours of continuing education (separate from that required for license renewal) in the category of Measurements, Pretreatments or Calculations**, 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. § R4-29-402 (Improper quantities of termiticide applied) and A.A.C. § R4-29-407 (Failure to establish horizontal barriers prior to concrete pour).

Commission's Options:

1. **Accept** the proposed resolution and dismiss the complaint against Chad Berg'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.

E. Northwest Exterminating (BL)/Chad Berg (QP)/Noran "Eric" Ruden (APP) - Case No. 2007-006

This complaint contains allegations that on 8-17-05, the Business Licensee failed to perform a complete interior termite treatment on the third occurrence (within 5 years from the date of the pretreatment). The complete treatment should have been performed on 8-17-05. The company performed 7 additional spot treatments after separate termite

occurrences between 8-17-05 and 10-18-06. On 12-11-06, the company completed the treatment and an additional year was added to the warranty.

Because performing the complete treatment on the third occurrence is a business licensee responsibility, staff recommends that the complaint be dismissed against Chad Berg's qualifying party license and Eric Ruden's applicator license.

The following proposed resolution was reached:

That **Northwest Exterminating, BUS LIC #4410**, 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. § R4-29-409(C) (Complete treatment not performed on 3rd occurrence).

Commission's Options:

1. **Accept** the proposed resolution and dismiss against the Qualifying Party Licenses of Chad Berg and the Applicator License of Eric Ruden;
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. Rick Bessinger (APP) - Case No. 2007-028

This complaint contains allegations that on 2-9-07, a consumer's dog became ill after consuming rodenticide from one of three bait stations installed by Checkmate Termite & Pest Control applicator Rick Bessinger. The bait station that the consumer's dog came in contact with had already been removed, but at least one of the other stations was not secure or immobile as required by the pesticide label. A complaint was filed against Mr. Bessinger on 3-12-07. However, he never responded to the complaint in writing.

The following proposed resolution was reached:

That **Rick Bessinger, APP LIC #010619**, 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 Labels, within 30 days of the entered date of the 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)(4) (Applied rodenticide in a manner contrary to the pesticide label) and A.A.C. § R4-29-107(A) (Failed to respond in writing 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; or

3. **Reject** the proposed resolution and send the matter to hearing.

G. Carlos Gortariz (APP) - Case No. 2007-035

This complaint contains allegations that on 2-18-07, Carlos Gortariz did not properly perform a pretreatment in Tucson, Arizona. The slab-type was post-tension monolithic. Mr. Gortariz should have applied 148.49 gallons. However, Mr. Gortariz applied 124 gallons, thus shorting the site by 24.49 gallons (16.49%). Mr. Gortariz was unable to explain what attributed to the shortage. The SPCC filed a complaint on 4-27-07. Mr. Gortariz did not respond to the complaint.

The following proposed resolution was reached:

That **Carlos Gortariz, APP LIC #060722**, be issued an **Administrative Warning and obtain 2 hours of continuing education (separate from that required for license renewal) in the category of Measurements or Pretreatments or Calculations and Laws, within 30 days of the entered date of the 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. R4-29-402 (Improper quantity of termiticide applied) and A.A.C. § R4-29-107 (A) (Failed to respond in writing 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; or
3. **Reject** the proposed resolution and send the matter to hearing.

H. John Applegate (APP) - Case No. 2007-036

This complaint contains allegations that on 2-26-07, John Applegate did not properly perform a pretreatment in Tucson, Arizona. The slab-type was post-tension monolithic. Mr. Applegate should have applied 287.66 gallons. However, Mr. Applegate applied 232 gallons, thus shorting the site by 55.66 gallons (19.34%). Mr. Applegate attributed to the shortage to a calculation error.

The following proposed resolution was reached:

That **John Applegate, APP LIC #030309**, be issued an **Administrative Warning and obtain 2 hours of continuing education (separate from that required for license renewal) in the category of Pretreatments or Calculations, within 30 days of the entered date of the 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. R4-29-402 (Improper quantity of termiticide applied).

Commission's Options:

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

I. Robert Herndon (Former Temporary Qualifying Party Licensee and Applicator Licensee) d.b.a. Buggy Exterminating (Former Business Licensee) - Case No. 2006-061

This complaint contains allegations that on 8-25-05, a consumer hired Robert Herndon d.b.a. Buggy Exterminating to perform a preventative termite treatment. Mr. Herndon provided the consumer with a wood destroying insect agreement and charged the consumer \$1,800.00 for the treatment. The consumer contacted SPCC staff when she was unable to contact Buggy Exterminating to address reoccurrence of termite activity. This business license was revoked on 4-22-05; and his qualifying party license and applicator license expired on 5-31-05, and cannot be renewed (see Rules A.A.C. § R4-29-207(H)). Therefore, he is treated as an unlicensed person.

On 6-5-07, a notice settlement conference was mailed for a 6-11-07 meeting. However, Mr. Herndon did not attend, nor has he responded.

Commission's Options:

Issue a cease and desist order and/or impose a civil penalty of not more than one thousand dollars for the first occurrence, pursuant to A.R.S. § 32-2304(B)(16).

J. Lester Elam (APP) - Case No. 2007-015

This complaint contains allegations that Lester Elam misrepresented a fact to obtain and renew his applicator license. It was originally believed that Mr. Elam was convicted of a felony on 11-27-01 but that on his Applicator License Application (dated 1-17-05) he marked "no" for the question "Have you ever been convicted of a felony?" Research by SPCC staff revealed that on 2-11-03 the offense was designated as a misdemeanor. Mr. Elam's applicator license expired on 5-31-06 due to nonrenewal.

Subsequently, Mr. Elam was convicted of two other felonies on 11-27-06 and was incarcerated. Arizona Department of Corrections records indicate that Mr. Elam will remain incarcerated until 10-28-2011.

Staff recommends that this complaint be dismissed without prejudice 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 subsequent felonies in case Mr. Elam applies for a license in the future.

K. Arizona Exterminating Company (BL) - Case No. 2006-054

This complaint contains allegations that from 1-06 to 1-07, a branch office of Arizona Exterminating Company used the name "Patriot Pest & Termite Control" or "Patriot Pest & Termite Control, a branch of Arizona Exterminating Co.", including on termite pretreatment tags, contracts/proposals, treatment records and service vehicles. Patriot Pest & Termite Control is a licensed business in Prescott. The name "Patriot Pest & Termite Control" was the prominent or only name used and the name "Arizona Exterminating Company" (the licensed name) was not used or was not prominent. The branch did not obtain a separate business license before conducting business in a name style different from the licensed name.

No agreement was reached.

Commission's Options:

1. Send the matter to settlement conference to issue an Administrative Warning against the Business Licensee, because an Administrative Warning is the maximum discipline allowed by A.R.S. § 32-2321(C); or
2. Send the matter to hearing.

L. Permaguard, Inc., Permaguard Termite & Pest Control (BL)/John Donahue (QP) - Case No. 2007-029

This complaint contains allegations that the Business Licensee failed to perform a complete interior and exterior termite treatment on the third occurrence (within 5 years from the date of the pretreatment). On 10-17-05, the company performed an exterior spot treatment, when a complete exterior should have been performed. On 11-04-05 the company performed an interior spot treatment, when a complete interior treatment should have been performed. The company performed two additional times spot treatments between 5-10-06 and 11-09-06, again failing to perform a complete treatment. On 12-28-06, the homeowner hired another company to perform a complete treatment to her home and reported the issue to the SPCC on 1-22-07. The business licensee has since obtained special pest control account history software to prevent this violation from occurring again.

Because the *business licensee* is responsible for performing the complete treatment on the third occurrence, staff recommends that the complaint be dismissed against the qualifying party.

The following proposed resolution was reached:

1. That **Permaguard, Inc., BUS LIC #5100**, 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. § R4-29-409(C) (Complete treatment not performed on 3rd occurrence).

Commission's Options:

1. **Accept** the proposed resolution and dismiss against the Qualifying Party License of John Donahue;
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)

A. Justin Smith, Applicator Licensee – Case No. 2006-037

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. Verstegen)

A. Nicholas Lucero – OAH Case 06A-036-SPC / SPCC Case # 2006-036

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. Larry M. Ward, Applicator License No. 061150 - Case No. 2006-059. Mr. Ward

reports the status of his compliance with criminal probation (if any), employment status and rehabilitation status. Mr. Ward was granted a license pursuant to a consent agreement in November 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. Mark Van Osdel
- B. Roque G. Castillo
- C. Jason R. Ewing
- D. Timothy M. Holt
- E. Jeffrey C. Dettman
- F. Charles L. Herman, Jr.

XVII. Commission Updates and Reports.

- A. University Termite and Pest Control, Inc. (BL)/Richard Rupkey, II (QP) – Case No. 2005-069 – Commission’s consideration of compliance with Consent Agreement and Order, entered on 2/9/07.
- B. 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. Versteegen)
- C. Complaint Status Log: (Mr. Francis/Mr. Craig)
- D. Computer Based Testing “CBT” Status and Statistics: (Mr. Francis)
- E. Expenditure Report: (Ms. Gervase)
- F. Case Status Report (Every other month - last report 06/08/07): (Ms. Gervase)
- G. Sexton Pest Control/Paul Sexton – Inquiry #2007-047 (Ms. Gervase) – Commission’s consideration of Sexton’s request for Commission to pay its attorneys’ fees

XVIII. Approval of Minutes and Continuing Education Programs

- A. May 11, 2007 (regular session) Minutes (Ms. Gervase)

- B. May 11, 2007 (executive session) Minutes (separate handout) (Ms. Gervase)
- C. June 8, 2007 (regular session) Minutes (separate handout) (Ms. Gervase)
- D. June 8, 2007 (executive session) Minutes (separate handout) (Ms. Gervase)
- E. Continuing Education Program Applicants (Mr. Craig)

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

Current Proposed dates

August 10, 2007
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

XX. Adjournment