



STATE OF ARIZONA

Janet Napolitano  
Governor

## **Structural Pest Control Commission**

Lisa Gervase  
Executive Director

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### **NOTICE OF COMMISSION MEETING FRIDAY, May 11, 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](mailto: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](mailto: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**

1

*SPCC Commission Meeting Agenda – May 11, 2007*

**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)**

⇒Business and Qualifying Party License Renewal Status: Licenses that were not renewed by 12/31/06 are expired and licensee cannot operate. Lists of expired licensees (as of 1/12/07) is on website home page, scroll down to Industry Notices. Search current license status on home page, License Search.

⇒Applicator License Renewal Process: Began 4/1/07. Renew online with Renew EZ and save \$5.00! [www.sb.state.az.us/RenewEZ](http://www.sb.state.az.us/RenewEZ)

⇒CE (Continuing Education Courses). SPCC's course schedule posted on website. Registration: 480-CEU-SPCC; [CEU@sb.state.az.us](mailto:CEU@sb.state.az.us)

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

⇒Industry Notice mailed to all Business Licensees in 3/07. Website home page, Industry Information, Industry Notices. Has rule change highlights.

⇒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 and Activating Qualifying Party License: (Mr. Tolton)**

<u>Business</u>	<u>Qualifying Party</u>
1. Gary B's Pest Control	Gary W. Brown ("B1" General & Public Health Pest Control)
2. Nichols & Sons Landscaping, Inc.	James G. Ferrier ("B3" Right-of-Way & Weed Control and "B5" Turf & Ornamental Horticulture Pest Control)
3. Royal Weed Control	Richard A. Turney ("B3" Right-of-Way & Weed Control)
4. Executive High Reach Maintenance	Richard Mead ("B1" General & Public Health Pest Control)
5. Bee Bustin, LLC.	Christopher W. Brinton ("B1" General & Public Health Pest Control and "B2" Control of Wood-Destroying Insects)
6. Arizona Golf Resort & Conference Center	Larry W. Brooks ("B3" Right-of-Way & Weed Control and "B5" Turf & Ornamental Horticulture Pest Control)

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

<u>Qualifying Party</u>	<u>Business</u>
1. Larry G. Winter	Horticulture West II, Inc. ("B3" Right-of-Way & Weed Control)
2. William H. Golightly	Gopher Guys ("B1" General & Public Health Pest Control)
3. John T. Royalty	TruGreen Chemlawn ("B3" Right-of-Way & Weed Control)
4. Abel J. Bustos, Jr.	Cromley Exterminating ("B2" Control of Wood-Destroying Insects)
5. Reginald E. Moorby	DTR1, LLC. ("B3" Right-of-Way & Weed Control)

- |                    |                                                                                                                                                                      |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 6. Brady D. Bruce  | Moxie Pest Service (“B1” General & Public Health Pest Control)                                                                                                       |
| 7. Thomas S. Grab  | Arrowhead Exterminating Company, Inc. (“B1” General & Public Health Pest Control, “B2” Control of Wood-Destroying Insects, & “B8” Wood-Destroying Insect Inspection) |
| 8. Ronald D. Felix | Felix Pest & Inspection Services, LLC. (“B7” Fungi 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. Keith E. Currens     | “B3” (Right-of-Way & Weed Control)                                                                                        |
| 2. Don E. Davis         | “B3” (Right-of-Way & Weed Control) & “B5” (Turf & Ornamental Horticulture Pest Control)                                   |
| 3. Terry L. Whipple     | “B2” (Control of Wood-Destroying Insects) & “B8” (Wood-Destroying Insect Inspection)                                      |
| 4. Jedsmond M. Maglanoc | “B1” (General & Public Health Pest Control)                                                                               |
| 5. Jousty M. Maglanoc   | “B8” (Wood-Destroying Insect Inspection)                                                                                  |
| 6. Daniel J. Manasan    | “B2” (Control of Wood-Destroying Insects)                                                                                 |
| 7. Steve Griffin        | “B1” (General & Public Health Pest Control)                                                                               |
| 8. Bruce A. Winters     | “B3” (Right-of-Way & Weed Control)                                                                                        |
| 9. Robert L. Weymouth   | “B3” (Right-of-Way & Weed Control) & “B5” (Turf & Ornamental Horticulture Pest Control)                                   |
| 10. Edward W. Schroeder | “B2” (Control of Wood-Destroying Insects), “B3” (Right-of-Way & Weed Control), & “B8” (Wood-Destroying Insect Inspection) |
| 11. William R. Stewart  | “B2” (Control of Wood-Destroying Insects) & “B8” (Wood-Destroying Insect Inspection)                                      |

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

None

**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. William R. Stewart   | "B2" (Control of Wood-Destroying Insects) &<br>"B8" (Wood-Destroying Insect Inspection)                                                 |
| 2. Jedsmond M. Maglanoc | "B1" (General & Public Health Pest Control),<br>"B2" (Control of Wood-Destroying Insects) &<br>"B8" (Wood-Destroying Insect Inspection) |

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

None

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

None

**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. The Killer Bug Man (BL)/Timothy Dean Waggoner (QP & APP) - Case No. 2006-053**

This complaint contains allegations that from 2004 to 2006, Timothy Dean Waggoner performed pest control services as The Killer Bug Man. However, Mr. Waggoner's qualifying party license expired on 12/31/03. The business license expired on 12/31/04 and the applicator license expired on 5/31/05. Mr. Waggoner then obtained a new applicator license on 10/11/06 (license #060952). Mr. Waggoner did not attend the settlement conference. Under the new rules, the Business and QP licenses cannot be renewed, and the Commission can consider this matter in deciding whether to issue a license in the future if these former licensees reapply.

**There is no proposed agreement.**

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

1. Dismiss the complaint without prejudice and Suspend the Business License and Qualifying Party License for nonpayment of renewal fees (automatic revocation after one year), and do the same for the Applicator License if it is not renewed by 6/30/07.
2. If the Applicator License is renewed by 6/30/07, send the whole matter to hearing.

### **B. Riggs Pest Control, LLC (unlicensed)/Christopher Riggs (APP) – Case No. 2006-032**

This complaint contains allegations that in the spring of 2006, Christopher Riggs performed pest control services doing business as "Riggs Pest Control, LLC". Mr. Riggs advertised in a newspaper and attached signs to his vehicle. Additionally, he performed 12 to 16 pest management services. Mr. Riggs holds an applicator license, but Riggs Pest Control, LLC is not a licensed company, nor does it have a qualifying party licensee. Mr. Riggs did not attend the settlement conference.

**There is no proposed agreement.**

### Commission's Options:

1. Dismiss the complaint without prejudice and Suspend the Applicator License, if it is not renewed by 6/30/07, for nonpayment of renewal fees (automatic revocation after one year).
2. Impose a Cease & Desist Order and/or up to \$1,000 civil penalty against the business; dismiss the complaint without prejudice against the Applicator License and Suspend the Applicator License, if it is not renewed by 6/30/07, for nonpayment of renewal fees (automatic revocation after one year).
3. If the Applicator License is renewed by 6/30/07, send the whole matter to hearing.

### C. Steritech (BL)/Judith Black (QP) – Case No. 2006-047

The allegation received in this matter was that the business licensee had an unlicensed person performing pest management services. Staff found no evidence that the person performed any of the activities listed in Statute that would require a license.

**Staff's Recommendation:** Dismiss the complaint.

### D. John Michael Clay (APP) – Case No. 2006-048

This complaint contains an allegation that on 8-4-06, John Clay performed a pretreatment in Tucson, Arizona, where he should have applied 130.64 gallons of termiticide; however, he applied 111.6 gallons (short by 19.04 gallons). After SPCC staff informed him of the shortage, Mr. Clay applied the difference to the exterior of the post tension monolithic slab via rodding and trenching. Evidence indicates that the violation was due to a mathematical error.

**Staff's Recommendation:** Issue an Advisory Notice.

### Commission's Options:

1. **Accept** staff's recommendation;
2. Send 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. Joseph Michael McKinnon (APP) – Case No. 2006-046

This complaint contains allegations that on 12-29-05, Mr. McKinnon misrepresented a fact to obtain an applicator license. Mr. McKinnon was convicted of a felony in 1998. However, on his initial Applicator License application, he answered "no" to the question, "Have you ever been convicted of a felony?"

**The following proposed resolution was reached:**

That **Joseph Michael McKinnon APP LIC #060244** be **REVOKED** pursuant to A.R.S. § 32-2321(A) (Disciplinary action) for a violation of A.R.S. § 32-2321(B)(1) (Violating laws and rules), via A.R.S. § 32-2321(B)(3) (Misrepresenting a material fact in obtaining a license) and A.A.C. R4-29-107(A) (Failing 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.

**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. Verstegen)**

None

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

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. Joseph D. Wilkerson, Applicator License No. 060328 B3 - 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. Cory J. Linninkamp

B. Johnathon A. Sterkeson

C. Raymond Chavez, Jr.

D. Michael W. Donn

E. Mark Lumia

F. K.C. Cody Vasquez

G. Charles Korzun

**XVII. Commission Updates and Reports.**

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. Legal Advice regarding A.R.S. § 32-2325(6) as to whether a "salesperson" is required to be licensed, and if so, when.: (Ms. Verstegen)

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 04/13/07): (Ms. Gervase)
- G. Repeal of Substantive Policy Statements that are no longer necessary in light of the new rules (Policies are in Commissioner binders and on website):

2005-001 – issuing and renewing temporary QP licenses – now addressed in rules A.A.C. R4-29-101, -208 and -209

2004-003 – creating horizontal barriers under abutting slabs that are not under roof – now addressed in rule A.A.C. R4-29-305

2004-001 – allowance to treating to depth of footer beyond 4' – now addressed in rule A.A.C. R4-29-305

2003-001 – 2" lettering – now addressed in rule A.A.C. R4-29-605

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

**A. April 13, 2007 (regular session) Minutes: (Ms. Gervase)**

**B. Continuing Education Program Applicants: (Mr. Craig)**

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

##### **Current Proposed dates**

**June 8, 2007**

**July 13, 2007**

**August 10, 2007**

**September 14, 2007**

**October 12, 2007**

**November 9, 2007**

**December 14, 2007**

**January 11, 2008**

**February 8, 2008**

#### **XX. Adjournment**