COMMISSION MEETING
October 11, 2002
MINUTES

I. Call to order and roll call

Commissioners present: Commissioner Burrows, Fraker, Hale, Hartley, Micuda, Peterson and Robinson

Staff Present: Executive Director, Jerome Davis, Barry Levitch, Pamela Ulbrich, Richard Mars, Dirk S. VandenBerg, Sr., Michael Francis, Vince Craig, Maggie Vazquez, Jason Aanderud, Dave Colvin, Fernanda Perciado, Alan Pugh, Carl Martin, and Assistant Attorney General Blair Driggs

II. Approval of August 2002 Minutes . . . . . TAB 1

MOTION: To approve August 2002 Minutes by Commissioner Micuda. Seconded by Commissioner Burrows.

VOTE: 7 - 0 Motion carried.

III. Approval of September 2002 Minutes . . . . . TAB 2

MOTION: To approve September 2002 minutes by Commissioner Robinson. Seconded by Commissioner Micuda.

VOTE: 7 - 0 Motion carried.

IV. Call to the public (Each speaker limited to five minutes)

None

V. Correspondence with Commissioners

Chairman Hartley received a letter from Pestubes on the list of houses out of 180 days.

V. Scheduling of future meetings/agenda items

November 8, 2002 . . . . . .Tucson, AZ

December 13, 2002 . . . . . .Scottsdale, AZ
January 10, 2003 . . . . . Scottsdale, AZ
February 14, 2003 . . . . . Scottsdale, AZ
March 14, 2003 . . . . . .Scottsdale, AZ
April 11, 2003 . . . . . Scottsdale, AZ
May 9, 2003 . . . . . Tucson, AZ

VI. Consent Agenda.

Items will be read and voted on in one group excluding those pulled for discussion.

A. Applications for New Business License

1. Blase, Jeffrey G. *Pulled*	**dba**	**Pro Tek (Activating Qualifying Party for new business license in "B" General Pest). . . . . .TAB 3**
MOTION:		*To approve by Commissioner Peterson. Seconded by Commissioner Fraker.*
VOTE:		*7 - 0 Motion carried.*
2. Glotzer, Steven H.	**dba**	**Naturzone of Arizona (Activating Qualifying Party for new business license in "B" General Pest) . . . . . TAB 4**
3. Johnson, John Steve	**dba**	**Rush Termite & Pest Control, Inc. (Activating Qualifying Party for new business license in "B" General Pest & "C" Wood Destroying Organisms) . . . . . TAB 5**
4. Lopez, Luis Fernando	**dba**	**Fumi-Mex Exterminating Activating Qualifying Party for new business license in "B" General Pest) . . . . . TAB 6**
5. McCraw, Todd	**dba**	**Desert Cities Pest Management (Activating Qualifying Party for new business license in "B" General Pest) . . . . . TAB 7**
6. Peters, Tanya Marie	**dba**	**Tanya's Pest Control (Activating Qualifying Party for new business license in "B" General Pest). . . . . TAB**

7. **Slingluff, Jeffrey J.** **dba** **No Bugz at Anthem (Activating Qualifying Party for new business license in "B" General Pest) . . . . . .TAB 9**

8. **Snyder, Robert** **dba** **Pratte Termite Center, LLC. (Activating Qualifying Party for new business license in "B" General Pest & "C" Wood Destroying Organisms) . . . . . TAB 10**

9. **Way, William E.** **dba** **Zion Pest and Pigeon Solution (Activating Qualifying Party for new business license in "B" General Pest, "F" Turf & Ornamental, "E" Weed & "E-1" Aquatic Weed) . . . . . TAB 11**

B. Applications for Existing Business License

1. **Andreaccio Frank A.** **dba** **Godfather Pest Control, Inc. (Activating Qualifying Party for existing business license in "B" General Pest) . . . TAB12**

2. **Carmack, Mary T.** **dba** **Bock's Bee'sss (Activating Qualifying Party for existing business license in "B" General Pest) . . . . . TAB 13**

3. **Loehr, Jeffrey S.** **dba** **Independent Pest Management, Inc. (Activating Qualifying Party for existing business license in "C" Wood Destroying Organisms). . . . . .TAB 14**

4. **Nickasch, James** **dba** **Willcox Pest Management (Activating Qualifying Party for existing business license in "B" General Pest) . . . TAB 15**

5. **Powell, Timothy D.** **dba** **Schendel Pest Control of AZ, Inc. (Activating Qualifying Party for existing business license in "B" General Pest & "D" Fumigation) . . . . . TAB 16**

C. Applicants for QP Testing

1. **Aesch, Paul G.** **"C" (Wood Destroying Organisms). . . . . TAB 17**

2. **Blankenship, Daniel L.** **"C & D" (Wood Destroying Organisms & Fumigation) . . . . . TAB 18**
   Pulled

   MOTION: *To approve by Commissioner Peterson. Seconded by Commissioner Micuda.*

   VOTE: *7 - 0 Motion carried.*

3. **Mason, Gilbert Allen** **"C" (Wood Destroying Organisms) . . . . . TAB 19**

4. **Nyman, Paul Gary** **"B & C" (General Pest & Wood Destroying Organisms). . . . . TAB 20**

5. **Walker, J. Michael** **"E & F" (Weed Control & Turf & Ornamental). . . . . TAB 21**

D. Applicants to Broaden Qualifying Party

1. **Aesch, Harold W.** **"C" (Wood Destroying Organisms). . . . . TAB 22**

2. **Todd, Terry V.** **"F" (Turf & Ornamental) . . . . . TAB 23**

E. Request for Temporary Qualifying Party Certificate and/or Extension

1. **Aesch, Paul G.** **dba** **Pestube Systems Inc. . . . . TAB 24**
   Pulled

   MOTION: *To deny extension by Commissioner Robinson. Seconded by Commissioner Hale.*

   VOTE: *6 - 1 Motion carried.*

   Denied due to excessive time to test by Mr. Aesch.

2. **Nickasch, James R.** **dba** **Willcox Pest Management . . . . . TAB 25**

F. Request for Company Name Change

1. **Bug Stop Pest Control to Anchor Pest Control . . . . . TAB 26**

2. **BugWiser Exterminating to BugWiser . . . . . TAB 27**

3. **MasterCare Pest Management and Environmental Services to MasterCare . . . . . TAB 28**

G. Continuing Education Committee Minutes
September 2002 Meeting . . . . . .TAB 29

H. NOTICE OF APPEAL

1. **Ramon Llamas - Case # 2001-371 . . . . . TAB 30**
Pulled

MOTION: *Motion to Deny Request of Notice of Appeal by Commissioner Burrows.*
Seconded by Commissioner Robinson.

VOTE: *7 - 0 Motion carried.*

Denied because no new evidence has been submitted.

I. Settlement Conferences (Cases Already Heard By Commission)

1. **Bill's Pest and Termite Company - Case # 2002-077 . . . . . .TAB 31**
Allegations resulting from an inaccurate Wood Infestation Report.

Table - This case was pulled so Dirk S. VandenBerg, Sr., could read the changes, so the record is reflected correctly. Case sent back to staff for further investigation and the company needs to comment on settlement with consumer.

Staff has investigated the allegations and found no violations.

Recommendation to Dismiss.

NOTE: Letter sent to Consumer, Larry Miller and Bill's Pest & Termite Company to attend the Commission's October 11, 2002 Meeting.

2. **Contractors Termite Control - Case # 2001-037 . . . . . .TAB**

32

Violation resulting from an improper disposal of termiticide rinsate.

Table - This case was pulled so Dirk S. VandenBerg, Sr., could read the changes, so the record is reflected correctly. Case sent back to staff because Contractors attorney Lisa Gervase spoke to the Commission and requested they reconsider on the Joint Responsibility Rule for the Qualifying Party. Ms. Gervase does not want a sanction on the Qualifying Party only on the applicators. Case is to be rescheduled for another Settlement Conference with SPCC staff. Staff is to check culpability and training. The burden of proof on company as to training and documentation.

Resolution:

1. That Certified Applicator Jeff Bohannon be issued and Administrative Warning for violation of A.A.C. R4-29-301(A).

2. That Certified Applicator Lionel Stewart be issued an Administrative Warning for violation of A.A.C. R4-29-301(A).

3. That Qualifying Party Kevin Etheridge be issued an Administrative Warning for violation of A.A.C. R4-29-301(A).

NOTE: Letter by Lisa C. Gervase to place this matter on Agenda for Reconsideration of the Commission's August 9, 2002 decision to accept the proposed Settlement.

Commissioner Burrows left the meeting at 10:03 A.M.

3. Workman Home Services - Case # 2002-045 . . . . . .TAB

33

Violations resulting from the application of a termiticide not consistent with its product label or labeling. The drill holes exceeded the label directions.

Pulled - This case was pulled so Dirk S. VandenBerg, Sr., could read the changes so the record is reflected correctly.

Resolution:

1. That the Business License # C 5805 BC, Workman Home Services be issued an Administrative Warning for violation of A.A.C. R4-29-301(A) (Misuse) (Drill hole spacing).

2. That the Qualifying Party for Workman Services, Emily Workman QP # 1875 BC be issued an Administrative Warning for violation of A.A.C. R4-29-301(A) (Misuse) (Drill hole spacing).

3. That the Certified Applicator Allen Workman # 860383 BCE, be issued an Administrative Warning for violation of A.A.C. R4-29-301(A) (Misuse) (Drill hole spacing).

NOTE: The Structural Pest Control Commission received the soil analysis on 8-15-02 which indicated Fipronil was present at 190 ppm in the sample.

MOTION: To approve by Commissioner Micuda.
Seconded by Commissioner Peterson.

VOTE: 6 - 0 Motion carried.

End of Consent Agenda

MOTION: By Commissioner Peterson to accept Consent Agenda as read with the exception for those items pulled for discussion.
Seconded by Commissioner Hale.

VOTE: 6 - 0 Motion carried.

Break at 10:40 A.M.
Meeting reconvened at 10:50 A.M.

Chairman Hartley moved to Item XII the Friday Group on the Agenda because Commissioner Micuda will need to leave the meeting early.

VIII. Decision and Recommended Order by Administrative Law Judge

1. Anton Ashworth Medlin - Case # 2001-355 . . . . . TAB 34

MOTION: To approve Finding of Fact Conclusion of Law by Commissioner Micuda.
Seconded by Commissioner Hale.

VOTE: 6 - 0 Motion carried.

MOTION: To accept Recommended Order and Fine by Commissioner Micuda.

Seconded by Commissioner Peterson.

VOTE: 6 - 0 Motion carried.

IX. Complaints and/or Settlement Conferences (1st Time Before Commission)

1. Ant Brian's Exterminating - Case # 2002-084 . . . . . TAB 35

Violation resulting from the failure to file Termite Action Registration Forms (TARF's) and failure to respond to a complaint.

Proposed Resolution:

1. That the Business License # P 5531 BC, ***Ant Brian's Exterminating*** *be issued an Administrative Warning and civil penalty in the amount of $1000.00 for violation of A.A.C. R4-29-417 (A) Termite action registration report.*

2. That the Qualifying Party for ***Ant Brian's Exterminating****, Brian Oldham QP # 2029 BC be issued an Administrative Warning and $1000.00 for violation of A.A.C. R4-29-417 (A) Termite action registration report.*

3. *That the Qualifying Party Brian Oldham QP# 2029 BC, be issued an Administrative Warning for violation of A.A.C. R4-29-107 (A) Complaints.*

4. That the Business License # P 5531 BC, ***Ant Brian's Exterminating*** *be required to submit the 91 TARF's along with fees of $8.00 per TARF and $8.00 per TARF late fees totaling $1,456.00 for violation of A.A.C. R4-29- 417 (A) Termite action registration report.*

NOTE: All fees ($3456.00) are to be paid within six (6) months from the date of the Commission Order. The first payment of $600.00 per month is due within 30 days of this Order. Mr. Oldham willingly accepted this Order as proposed.

MOTION: To approve by Commissioner Peterson.
Seconded by Commissioner Hale.

VOTE: 5 - 0 Motion carried.

2. City Wide Pest Control - Case # 2002-057 . . . . . TAB 36

Improper storage of a pesticide.

Proposed Resolution:

1. That the Business License # C 2317 BC, ***City Wide Pest Control*** *be issued an Administrative Warning and civil penalty in the amount of $100.00 for violation of A.A.C. R4-29-301(A).*

2. That the Qualifying Party for ***City Wide Pest Control****, Steve Skiba QP # 1015 BC be issued an Administrative Warning and $100.00 for violation of A.A.C. R4-29-301(A).*

3. That the Business License # C 2317 BC, ***City Wide Pest Control*** *be issued an Administrative Warning and civil penalty in the amount of $100.00 for violation of A.A.C. R4-29-311(E).*

4. That the Qualifying Party for ***City Wide Pest Control****, Steve Skiba QP # 1015 BC be issued an Administrative Warning and $100.00 for violation of A.A.C. R4-29-311(E).*

NOTE: All fees are to be paid within 30 days from the date of the Commission Order. Mr. Skiba agreed to the terms of the telephone settlement conference.

MOTION: To approve by Commissioner Peterson.
Seconded by Commissioner Robinson.

VOTE: 5 - 0 Motion carried.

3. Cuz'ins Cleaning and Maintenance - Case # 2002-054 . . . . . TAB 37

Violation of performing work of structural pest control without the benefit of a license.

Proposed Resolution:

Staff has investigated the allegations and found violation.

Staff Recommendation: Office of Administrative Hearings.

On September 30, 2002 a telephone Settlement Conference was held at the SPCC Office in Scottsdale. No agreement between SPCC staff and Cuz'ins Cleaning and Maintenance could be reached.

MOTION: To accept and send case to Office of Administrative

Hearing by Commissioner Peterson.
Seconded by Commissioner Hale.

VOTE: *5 - 0 Motion carried.*

4. Pestube Systems Incorporated - Case # 2002-017 . . . . . TAB 38
Failure to perform final grades within 180 days.

Proposed Resolution:

1. That the Business License # C 5496 BC, ***Pestube Systems Incorporated*** be issued an Administrative Warning for violation of A.R.S. 32-2321(B)(2) and A.R.S. 32-2304(A)(15).

2. That the Qualifying Party for ***Pestube Systems Incorporated***, Harold Aesch, QP # 3155 B be issued an Administrative Warning for violation of A.R.S. 32-2321(B)(2) and A.R.S. 32-2304(A)(15).

Note: Mr. Aesch agreed to the terms of the telephone settlement conference.

MOTION: *To approve by Commissioner Peterson.*
Seconded by Commissioner Robinson.

VOTE: *5 - 0 Motion carried.*

X. Felony Applicants

1. Carrillo, Moises . . . . . .TAB 39

Not Present

2. Hicks, Arthur Leon . . . . . .TAB 40

MOTION: *To approve by Commissioner Robinson.*
Seconded by Commissioner Peterson.

VOTE: *5 - 0 Motion carried.*

3. Shambaugh, Robert Allen . . . . . .TAB 41

Move to November 8, 2002 Commission Meeting.

4. Ward, Larry M. . . . . TAB 42

MOTION: *To approve by Commissioner Hale.*
Seconded by Commissioner Fraker.

VOTE: *3 - 2 Motion carried.*

XI. Case Status . . . . . TAB 43

XII. Friday Group . . . . . TAB 44

HB 2189
R4-29-104
W.I.R.
Business Name
Label Issues
Legislation

Discussion by Commissioner Micuda, Carl Martin, Chairman Hartley, Scott Richardson, Lisa Gervase and Blair Driggs. Concerns were vocalized about the extent of the Friday Group's meetings. Commissioner Micuda stated the group are stakeholders flushing out problems. If the Committee has some issues and recommendations the group is able to identify such as: the business license name change and joint responsibility. This Committee is able to flush out different perspectives which enables the Commission to make better policy. It is a latitude for the group to make recommendations to the Commission. The Committee is complying with the open meeting laws and keeping minutes which has not been done in the past. The group consists of people from the industry and the Commission who are part of the Friday group. Mr. Richardson stated he has been on dozen of committees, and now feels something is being done. Previously, Mr. Richardson sat on the WIR committee and it went no where. They are people with a common interest to recognize the issues that face the public and industry. This group gets the people to talk about the issues, decrease the level of mis-trust between the industry and the Commission. There is communication with the industry, staff and the public. Chairman Hartley stated overall, the group that has been meeting has been healthy. Chairman Hartley thinks the information should be apart from the Commission and not be a "shadow of the Commission" and the APMA or public should deal with these issues. Commissioner Micuda asked where is the controversy? Chairman Hartley stated the APMA report dated September 10, 2002 which quoted Scott Richardson that "there are no more covert inspections." It was questioned of who from SPCC staff said there are no more covert inspections. Scott Richardson commented the Committee was to look at CBT, Test Results and the Matrix. Chairman Hartley asked Mr. Richardson if he knew what is the definition of a "Shadow Commission" if he knew what it

meant. Blair Driggs stated the Commission should not have a general Committee, but should have a specific Committee and they should comply with the open meeting laws. Commissioner Hale agreed with Chairman Hartley the Committee should have a specific configuration. It was questioned of who wrote the Memo on behalf of the Committee and Carl Martin stated he wrote it and will stand by it. Lisa Gervase stated she would like to mediate some of this. The Committee was to look at Label-Laws/Rules and resolve Matrix issues. In Ms. Gervase's notes from September 27, 2002 any idea that has not been authorized by the Commission has to go back to the Commission. Chairman Hartley takes the responsibility for not defining what were the issues for the Committee and by not giving clear directions. Two Motions were made during this discussion one by Commissioner Micuda and the other by Commissioner Peterson. Both Motions were withdrawn by Commissioner Micuda and Commissioner Peterson. The Motions were "that we set up a Laws/Rules Committee" and "One Committee we have standing is gone and appoint a new committee who will move forward come back and report to the Commission next month." Commissioner Fraker commented that the Committee was formed for HB 2189 and CBT. Commissioner Fraker stated HB 2189 encompasses a lot of areas and vast items to implement. Commissioner Micuda stated the Committee has looked at 2189, Joint Responsibility, Business Name Changes, Variances and Label should be the law. Each one of these item is complicated and he feels the Committee has come up with some options and the Committee has not gone amuck with issues. Commissioner Micuda commented he has sat on another Committee that has done their Rules which took them 1 ½ years to do and in the two years nothing has been done for the SPCC Rules. Dirk S. VandenBerg, Sr., was confused on the Rules Committee. Mr. VandenBerg stated they have accomplished a lot on the Joint Responsibility. It was stated there was already a Statutes and Rules Committee and no other Committee needed to be formed.

AMENDED AGENDA
Selection Criteria/Process for New Executive Director

Discussion by Chairman Hartley on the criteria for the New Executive Director. The process has been posted on the SPCC web site and on the ADOA web site of the job details and what qualifications are needed to apply for the position. Resumes will be sent to Committee members and then distributed to the Commissioners. The Committee members are Barry Aarons, Chairman Hartley, Commissioner Peterson, Commissioner Hale, and Dirk S. VandenBerg, Sr. The five top candidates will be scheduled an interview the week of November 18, 2002 and then a report will be sent to the Commission of the three candidates with recommendations.

XIII. Executive Director's Report

Computer Based Testing (CBT) - Current Status

Discussion by Jerome Davis. Mr. Davis stated CBT is status quo. We should be hearing from procurement shortly and the information will be on the November 2002 Agenda. Mr. Davis

further stated the SPCC Policy Procedure Manual will be ready for review and will be available at the November 2002 meeting, as well. Mr. Davis commented the FMC software which Hugo has been working on will be operational sometime this month. The last item for discussion is the Governor's Office needs the ethic training completed for new Commissioners.

Adjournment - 1:10 P.M.

MOTION: *To adjourn, by Commissioner Peterson.*
Seconded by Commissioner Robinson.

VOTE: *5 - 0 Motion carried.*