

**Structural Pest Control Commission
9535 East Doubletree Ranch Road
Scottsdale, Arizona 85258**

**COMMISSION MEETING
FRIDAY, August 13, 2004 - 9:00 A.M.
MINUTES**

I. Call to order, Commissioner roll call

Commissioners Present: Commissioners Allen, Baker, Fraker, Hartley, Peterson, Robinson and Runbeck.

Commissioners Absent:

Staff Present: Dave Colvin, Vince Craig, Mike Francis, Lisa Gervase, Carl Martin, Hugo Pulido, Robert Tolton, Maggie Vazquez, Manny Jacobo and Eric Bauer, Legal Interns, and Assistant Attorney General Christopher Munns

II. Call to the public

Commissioner Fraker stated he would like added a discussion on background checks for felony applicants on next months agenda.

Carl Martin stated the SPCC has attended meetings nationally and has been recognized for their work. They have also been sought out for their ideas and work in areas of pest control.

Commissioner Baker stated he attended an evaluation of the Termiticide and the Commission supported his travel expense. The U.S. Forest Service asked him to participate in the evaluation and to check compliance with the EPA. As an academic, he made various recommendations. He has serious problems with the Forest Service Termiticide Program. Mr. Martin stated members of this Commission are routinely turned to nationally for this type of work. Commissioner Baker also requested that a discussion about exam questions be on the next agenda.

III. Communication with Commissioners

IV. Consent Agenda

Commissioner Peterson stated items will be read and voted on in one group

excluding those pulled for individual discussion by the Commissioners or staff. He then asked the Commissioners which items they wanted to pull for discussion.

A. Applications for New Business License

Qualifying Party

- 1. Beebe, John Nelson** **Instar, Inc.** (Activating Qualifying Party for new business license in "B1" General Pest/Public Health)

- 2. Cozzens, Dustin Trevor** **Origin Horticultural Services, L.L.C.** (Activating Qualifying Party for new business license in "B3" Right of Way/Weed and "B5" Turf & Ornamental Horticulture)

- 3. Frink, Clifford W.** **JER/SGG Legend Trail, L.L.C.** (Activating Qualifying Party for new business license in "B3" Right of Way/Weed Control and "B5" Turf & Ornamental Horticulture)

- 4. Hanes, Dennis Laney** **Hanes Black Canyon Pest Control** (Activating Qualifying Party for new business license in "B1" General Pest/ Public Health)

- 5. Hoover, Jr., William Carl** **Shurgard Pest Control** (Activating Qualifying Party for new business license in "B1" General Pest/Public Health)

Pulled

Commissioner Peterson had a question regarding the registered trade and business name. He wants to make sure there is no conflict with Hoover Pest Control and Shurgard Pest Control. Robert Tolton stated Hoover Pest Control Inc. purchased Shurgard Pest Control. Lisa Gervase asked if Hoover was doing business as Shurgard. Mr. Tolton responded that it was.

MOTION: *To approve activating QP for new business license in "B1" by Commissioner Runbeck. Seconded by Commissioner Baker.*

VOTE: 7 - 0 Motion carried.

6. **Keith, Joshua** **Rodent Proof, LLC.** (Activating Qualifying Party for new business license in "B1" General Pest/Public Health)
7. **Romero, Cynthia** **A and E's Grand Pest Control** (Activating Qualifying Party for new business license in "B1" General Pest/Public Health)
8. **Styer, Lee Franklin** **Scottsdale Unified School Dist. #48** (Activating Qualifying Party for new business license in "B5" Turf & Ornamental Horticulture)

Lisa Gervase stated Mr. Styer had also passed the "B1" and "B3" QP exams and asked the Commission to make a verbal amendment to approve and activate in all three categories.

MOTION: *To reconsider activating QP for new business license in "B5" and activate QP for new business license in "B1," "B3," and "B5" by Commissioner Allen.
Seconded by Commissioner Runbeck.*

VOTE: 7 - 0 Motion carried.

B. Applications to activate Qualifying Party for Existing Business License

1. **Espinosa, Rene** **McKeown, Inc.** (Activating Qualifying Party for existing business license in "B3" Right of Way/Weed Control and "B5" Turf & Ornamental Horticulture)
2. **Krueger, James Arthur** **Orkin** (Activating Qualifying Party for existing business license in "B2" Control of Wood-Destroying Insects, "B4" Fumigation and "B8" Wood Destroying Insect Inspection)
3. **McGhee, Lee Eric** **Enviro Pro Pest Management Services**

(Activating Qualifying Party for existing business license in "B1" General Pest/Public Health)

Pulled

Mr. McGhee appeared. Commissioner Robinson asked Mr. McGhee if he started testing because his "B1" license will expire on 9/19. Robert Tolton stated Mr. McGhee got a temporary for the "B1" in order to have his business continue in that category and is currently licensed as a QP.

MOTION: *To approve activating QP for existing business license in "B1" by Commissioner Robinson. Seconded by Commissioner Hartley.*

VOTE: *7 - 0 Motion carried.*

4. Roper, Chris Ike

La Paz Pest Control (Activating Qualifying Party for existing business license in "B2" Control of Wood-Destroying Insects and "B8" Wood Destroying Insect Inspection)

C. Applicants for QP Licensure

1. Amalfi, Frederick Anthony "B1" (General Pest/Public Health)
Pulled

Mr. Amalfi appeared. Commissioner Baker had a question regarding the number of experience hours. Mr. Amalfi stated their company is a consultant to a number of municipalities. They also have an emergency contract with the State of Arizona. Their company does a lot of mosquito monitoring, midge fly monitoring, identifications, and treatments. He has done this for eight years and always tells clients he cannot discuss fogging because it crosses over his license. Mosquitos fall under the general pest and not the aquatic category. Mr. Amalfi hopes to expand to allow him to be more complete in doing his consulting work. They are always in communication with the people doing vector control for the county.

MOTION: *To approve QP testing by Commissioner Baker. Seconded by Commissioner Allen.*

VOTE: *7 - 0 Motion carried.*

- 2. Arp, Nathan William** "B1" (General Pest/Public Health)
Pulled

Mr. Arp did not appear. *Commissioner Baker had a question regarding the exam problem. Robert Tolton stated Mr. Arp is reapplying to test and not applying for a temporary extension. He was previously approved in 2002 for QP testing, tested and did not meet qualifications. Mr. Tolton added Mr. Arp waited ninety days and failed again to meet qualifications. Mr. Arp is requesting another opportunity to test, not a temporary extension. Commissioner Baker wanted to ask Mr. Arp if he was getting any support or classes to pass the test. Commissioner Runbeck inquired if there were any limitations on the amount of times one can test. Lisa Gervase responded there are no limitations. Commissioner Baker asked if they could table this matter until they could speak with Mr. Arp. Commissioner Peterson did not think that was necessary because he is just applying to take the test. He added Mr. Arp is doing the right thing even though he is having difficulty with the exam.*

MOTION: *To approve QP testing by Commissioner Runbeck.
Seconded by Commissioner Allen.*

VOTE: *7 - 0 Motion carried.*

- 3. Blankenship, Zachariah A.** "B1, B2 and B8" (General Pest/Public Health, Control of Wood-Destroying Insects and Wood Destroying Insect Inspection)

- 4. Buries, Leo John** "B3 and B5" (Right of Way/Weed Control and Turf & Ornamental Horticulture)
Pulled

Mr. Buries appeared. Commissioner Robinson had a question regarding the duties of Mr. Buries as GM of the facility. Mr. Buries stated he is in charge of the total maintenance organization, operates the pro shop, and oversees the financial responsibilities of the corporation. Commissioner Robinson asked if Mr. Buries does anything with food service. Mr. Buries said he did not. Commissioner Robinson asked what percentage of time was allotted to maintenance and pesticides. Mr. Buries responded 40% for maintenance and 15% to 20% for pesticides. Commissioner Robinson asked what materials he had applied. The only thing he has applied is Round-Up Pro.

He has a licensed applicator and they are under contract with a QP. Commissioner Robinson asked if he has any educational background in pesticides. Mr. Buries attended courses at KemTec and Metro Institute in the core, weeds, and turf & ornamental sections. Mr. Buries added twenty years ago he used chemicals in another operation. Commissioner Robinson stated his problem was with the law regarding 3000 hours of experience in the application of pesticides. Mr. Buries stated he worked with a spray technician learning how to mix and when to spray over the past year and a half. He is owner of the corporation and a resident, so a QP will be available at all times. He does a lot of research on turf and the application of chemicals. Commissioner Fraker asked about the 3000 hours in right of way and weed control. Mr. Buries stated the 3000 hours were based on the management side approving purchase orders for materials and monitoring the mixing and storage of materials. Commissioner Fraker asked what his actual hands on experience time would be. Mr. Buries answered about 100 hours. Commissioner Peterson asked whether management hours equate to practical experience. Commissioner Robinson stated he does not have the required experience because of all his responsibilities. Mr. Buries stated it would take a long period of time to attain 3000 practical hours because they do a lot of weed control without chemicals or pesticides. Their operation is limited. Commissioner Robinson asked if Mr. Buries would be identifying problems and ordering products. Mr. Buries stated if they see a problem, he discusses it with his technician. He spends a lot of time on the golf course doing inspections. Commissioner Allen stated they are renting a QP and he is acting like a QP more than the rented one. The way the law reads, he is accumulating hours when he is on the grass while the QP just comes in to collect a check. Commissioner Fraker stated the problem is in the verbiage of the statute. However, Mr. Buries does meet the letter of the law of being "in the business."

MOTION: To approve QP testing by Commissioner Baker.
Seconded by Commissioner Runbeck.

VOTE: 6 - 1 Motion carried. (Commissioner Robinson opposed)

5. Burns, Craig Gene "B3" (Right of Way/Weed Control)
Pulled

Mr. Burns appeared. Commissioner Baker had a question regarding the 283 elementary schools. Commissioner Baker asked how they service 283 schools per day. Mr. Burns stated it is 28 elementary schools. They do it day by day by going out to do the schools. Commissioner Baker was reading

283 instead of 28 schools.

MOTION: To approve QP testing by Commissioner Baker.
Seconded by Commissioner Runbeck.

VOTE: 7 - 0 Motion carried.

- 6. Cervantes, Melanie Dawn** "B3 and B5" (Right of Way/Weed Control and Turf & Ornamental Horticulture)
Pulled

Commissioner Hartley thought he had a question regarding the applicant's education/experience, but does not, and is satisfied with the qualifications of this applicant.

MOTION: To approve QP testing by Commissioner Hartley.
Seconded by Commissioner Robinson.

VOTE: 7 - 0 Motion carried.

- 7. Davis, Claude Alanson** "B1" (General Pest/Public Health)
Pulled

Commissioner Baker withdrew pulling this item for discussion.

MOTION: To approve QP testing by Commissioner Baker.
Seconded by Commissioner Runbeck.

VOTE: 7 - 0 Motion carried.

- 8. Doherty, Brian Scott** "B1" (General Pest/Public Health)

- 9. Espinoza, Henry** "B1" (General Pest/Public Health)

- 10. Heihn, Paul Joseph** "B1" (General Pest/Public Health)
Pulled

Mr. Heihn appeared. Commissioner Hartley had a question regarding the experience hours. He questioned the 4,660 hours in less than two years as the Branch Manager. Mr. Heihn responded he worked himself to death six days a week. Commissioner Hartley asked how many people he supervises. Mr. Heihn stated just himself. Commissioner Hartley thought Mr. Heihn was

managing several employees and still had time to accumulate all those hours.

MOTION: *To approve QP testing by Commissioner Hartley. Seconded by Commissioner Fraker.*

VOTE: *7 - 0 Motion carried.*

- 11. Navis, Gary Lee** "B3" (Right of Way/Weed Control)
- 12. Oare, Robin Lynett** "B1" (General Pest/Public Health)
- 13. Olson, Steve N.** "B3 and B5" (Right of Way/Weed Control and Turf & Ornamental Horticulture)
- 14. Smoot, Michael Ray** "B1" (General Pest/Public Health)
Pulled

Mr. Smoot appeared. Commissioner Baker had a question regarding the number of hours accumulated by Mr. Smoot at Sun Devil Pest Control. Mr. Smoot stated the 1,712 hours was according to the QP of the company. He said his paycheck stubs show more than 1,712 hours. The QP wrote the number of hours and Mr. Smoot stated he has an excess of those hours. Commissioner Peterson asked Commissioner Baker if he was looking at the overlap. Commissioner Robinson stated Mr. Smoot also is on the agenda requesting an extension of his temporary QP because he is about to run out of time. Mr. Smoot stated he is about to close on a purchase of a company with a QP in all the relevant categories. Commissioner Robinson asked if they could approve on a contingency basis.

MOTION: *To accept QP testing by Commissioner Baker. Seconded by Commissioner Runbeck.*

VOTE: *7 - 0 Motion carried.*

- 15. Stenbridge, Kevin Edward** "B1, B2, B4 and B8" (General Pest/ Public Health, Control of Wood-Destroying Insects, Fumigation and Wood Destroying Insect Inspection)
- 16. Twito, Michael Dean** "B3" (Right of Way/Weed Control)

End of Consent Agenda

MOTION: *By Commissioner Hartley to accept Consent Agenda with the exception of those items pulled for discussion (A5, B3, C1, C2, C4, C5, C6, C7, C10, C14).
Seconded by Commissioner Fraker.*

VOTE: 7 - 0 Motion carried.

V. For review, consideration and action: Commission's reconsideration/review of denial of temporary qualifying party renewal based on new information, and possibly activating qualifying party license in B2 category for existing business license Hometeam Pest Defense.

A. Killenbeck, Arthur Leroy Hometeam Pest Defense, LLC

Lisa Gervase stated Mr. Killenbeck requested a renewal of his temporary QP license at last month's meeting. It was denied for various reasons, one of the reasons was because he had failed the exam for the third time. After the Commission's denial, Mr. Killenbeck filed a timely request for review or rehearing of that denial. They re-graded his exam and found he had in fact passed because of one question he did not receive credit for. Ms. Gervase suggests the Commission consider reversing their decision to deny Mr. Killenbeck his QP license and activate his QP in the "B2" category for Hometeam Pest Defense. Ms. Gervase further stated another employee of Hometeam approved to test last month also passed the QP exam. Ms. Gervase stated any questions regarding the exam question should be discussed in an executive session because the exam questions are confidential. Commissioner Allen asked who took the initiative to re-grade the exam. Ms. Gervase stated she did because he failed by one point and missed the question she had a problem with. Commissioner Allen added re-grading the exam was a good call to accommodate Mr. Killenbeck without bending the rules. Commissioner Baker asked if she is comfortable with the question. She stated the question has been reworded and Commissioner Fraker checked the question. Commissioner Allen stated if they need to reconsider the renewal for the temporary QP. Ms. Gervase said the denial is on the record.

MOTION: *To reconsider/review denial of temporary qualifying party renewal, withdraw that denial, and activate QP license in the "B2" category by Commissioner Allen.
Seconded by Commissioner Runbeck.*

VOTE: 7 - 0 Motion carried.

staff what they could do if an employer is not forthcoming about hours of experience. Lisa Gervase responded the laws and rules are silent regarding an employer providing an applicant's hours of experience but staff encourages the applicant to be as creative as possible in these situations by providing documents. Staff sometimes contacts the employer directly to ascertain the correct number of hours. Commissioner Allen asked Mr. Smoot if he has worked with staff to correct the hours. Mr. Smoot said no. He saw the hours and explained to Robert Tolton the discrepancy and they decided to go solely for a "B1." With the purchase of the new company, he felt it was not an issue that would come up. Commissioner Fraker stated they should not act on what might happen but on what is happening now. Mr. Smoot responded he mentioned that only because it is his contingency plan. Commissioner Fraker inquired about their status should the extension be denied. Mr. Smoot responded he would hire a QP for the "B1" category. He is the only employee of the company. He received his temporary QP in April and has yet to test. The reason he has not tested is because he had not received back corroboration of hours from his employers in time to submit to the Commission. His first extension came to an end and requested another extension with an intention to test, but he had not received from his employers the hours in order to submit the application packet. He has since received the hours and submitted the application to test. Commissioner Robinson asked staff why this information was not included for this individual. Mr. Tolton stated they received the complete QP application. Mr. Smoot came to the office to get a packet and sent the practical experience out to his employers. The employers stalled until recently to return the verification forms. Staff will not accept incomplete applications and if an employer stalls, they have little recourse. Ms. Gervase added Mr. Smoot got his temporary in April and the forms were not submitted until July. This caused him to get an extension in between. Staff received his complete application in late July. Staff does have verification of hours and Mr. Smoot did not receive them until late July.

MOTION: To approve extension by Commissioner Runbeck.
Seconded by Commissioner Allen.

VOTE: 6 - 1 Motion carried. (Commissioner Hartley opposed)

VIII. Complaints against Licensees

A. Lester Lane Bostwick (App) - Case # 2003-123

MOTION: To suspend the Applicator License for non-payment of renewal fees and dismiss this case without prejudice by Commissioner Hartley.
Seconded by Commissioner Baker.

VOTE: 7 - 0 Motion carried.

B. Contractors Termite and Pest Control/Kevin M. Etheridge (Officer and QP)/Scott Tanner (App) - Case # 2004-057

Appearances by Kevin Etheridge, Officer and QP; Bill Hanko, Branch Manager; D. Jay Ryan, attorney for business, QP and Applicator.

MOTION: *To accept enforcement response program terms and to dismiss the complaint against Business Licensee and Qualifying Party Licensee and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to send the case to the Office of Administrative Hearings, by Commissioner Runbeck. Seconded by Commissioner Fraker.*

VOTE: 7 - 0 Motion carried.

C. Dorado Pest Control/Douglas M. Myers (Owner)/Glen Elrod (QP)/Herbert Defrates (App) - Case # 2004-005

Lisa Gervase stated Mr. Meyers (Owner) is out of town and unable to attend, Mr. Elrod' (QP) could not appear because his son is getting married tomorrow out of state, but Mr. Defrates appeared. Messrs. Meyers and Elrod requested that this matter be tabled until September if the Commissioners had questions.

Commissioner Hartley asked staff why no fine was levied against the business license and only on the QP. Commissioner Hartley asked if the law prevented a business license from being fined on a first offense. Ms. Gervase responded the law does not prevent a fine because this is a pretreatment violation. She added the business opted to take the six months of prerecording and the QP opted for the civil penalty. Commissioner Runbeck asked why the business license did not respond initially. Mr. Colvin stated communication was between the inspector and the business licensee even though they did not technically respond to the complaint in writing. Lisa Gervase again stated that the parties requested a continuance until the next meeting if the Commission had any questions. Commissioner Hartley felt there was no difference between continuing this matter and taking the second option of returning it to settlement. Commissioner Runbeck asked whether they could accept the agreement with the QP and send the agreement with the business license back to settlement. Commissioner Hartley would prefer a clean agreement across the board so they would not have to remember what they agreed and did not agree to.

MOTION: *To return the matter to settlement to modify the resolution based on wanting a civil penalty against the business license by Commissioner*

Hartley.
Seconded by Commissioner Fraker.

VOTE: 6 - 1 Motion carried. (Commissioner Runbeck opposed)

D. First Inspection Termite and Bat Removal/Theodore Lafforthun (QP)/Milroy George Kellogg (App) - Case # 2004-007

Scott Richardson, attorney for the business and QP appeared.

Lisa Gervase stated they have a resolution to propose to the Commission. A settlement conference was recently conducted and the proposal is that the business licensee be issued an administrative warning and a \$100 civil penalty due within 30 days of the Order for not reporting conditions conducive to infestation. The QP will be issued an administrative warning and a \$100 civil penalty due within 30 days of the Order for not reporting conditions conducive to infestation. Commissioner Runbeck asked if the applicator is no longer in the business. Ms. Gervase stated the applicator's license was suspended for other reasons and has consented to a revocation of his license.

MOTION: To accept the agreement and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to send the case to the Office of Administrative Hearings by Commissioner Runbeck.
Seconded by Commissioner Hartley.

VOTE: 7 - 0 Motion carried.

E. Arizona Jones (App) - Case # 2004-050

MOTION: To accept enforcement response program terms and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to send the case to the Office of Administrative Hearings, by Commissioner Runbeck.
Seconded by Commissioner Hartley.

VOTE: 7 - 0 Motion carried.

F. JTSB Termite Technology, Inc./Joseph McNally, III (QP & APP) - Case 2004-120

Commissioner Fraker had a problem from an industry standpoint. The homeowner filed suit in court then filed a complaint with the Commission. Commissioner Fraker

believes this case should be dismissed because the homeowner requested less action. Commissioner Hartley stated the applicator needs to get the request in writing because the homeowner may have a short memory causing a he said she said incident. Commissioner Fraker stated in the past they have made mistakes and have learned more about reoccurrences. Dave Colvin stated the customer did not refuse a complete treatment, he just did not want the slabs drilled. Commissioner Fraker stated he could not do a complete re-treatment. Commissioner Runbeck inquired about the company's prior violations. Mr. Colvin responded the prior was for a re-treatment on a third occurrence. Commissioner Fraker stated the information states no priors. Mr. Colvin stated the record did indicate a prior. The day of the third occurrence, the customer did not refuse a complete treatment. They just did not want the slabs drilled.

MOTION: *To accept enforcement response program terms and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to send the case to the Office of Administrative Hearings, by Commissioner Hartley.
Seconded by Commissioner Baker.*

VOTE: 4 -3 *Motion carried. (Commissioners Robinson, Fraker, and Allen opposed)*

G. Northwest Exterminating/Chad Berg (QP)/Gilbert Valdez (App) - Case # 2004-006

MOTION: *To accept enforcement response program terms for the applicator, and to dismiss the complaint against Business Licensee and Qualifying Party Licensee, and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to send the case to the Office of Administrative Hearings, by Commissioner Fraker.
Seconded by Commissioner Hartley.*

VOTE: 7 - 0 *Motion carried.*

H. Patrick Adams (App) - Case # 2004-035

MOTION: *To suspend the Applicator License for non-payment of renewal fees and dismiss this case without prejudice by Commissioner Hartley.
Seconded by Commissioner Runbeck.*

VOTE: 7 - 0 *Motion carried.*

I. Black Sheep LLC dba Ant Brian's Exterminating/Brian Oldham (QP & APP) - Case # 2004-009

Commissioner Hartley asked if they could do any more immediate action. Lisa Gervase stated they issued a corrective work order in the next complaint. Commissioner Runbeck asked how they had a response on one complaint but not the other. Vince Craig stated they discussed the first matter on one day and were to discuss the second matter the following day. The QP did not show up the following day.

MOTION: *To send Case #2004-009 to the Office of Administrative Hearings by Commissioner Fraker.
Seconded by Commissioner Allen.*

VOTE: *7 - 0 Motion carried*

J. Black Sheep LLC dba Ant Brian's Exterminating/Brian Oldham (QP & APP) - Case # 2004-011

Commissioner Hartley asked why the TARF fees were split. Vince Craig stated the QP and Business Licensee were two separate entities. Commissioner Peterson asked if there is an additional penalty for not paying TARF fees besides the late fees. Mr. Craig stated in the past they did enforce a harsher penalty but using the matrix they came up with this penalty.

MOTION: *To accept enforcement response program terms and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to send the case to the Office of Administrative Hearings, by Commissioner Hartley.
Seconded by Commissioner Allen.*

VOTE: *7 - 0 Motion carried.*

K. Cowboy Pest Control/William L. Wilson (Owner and QP) - Case # 2004-001

MOTION: *To dismiss Case # 2004-001 by Commissioner Hartley.
Seconded by Commissioner Runbeck.*

VOTE: *7 - 0 Motion carried.*

L. Timothy Fickett (App) - Case #2004-075

Commissioner Hartley asked if they could do anything to get this guy stopped. Lisa Gervase added they have issued a cease and desist and a corrective work order. She added they could expedite the hearing.

MOTION: *To send Case # 2004-075 to the Office of Administrative Hearings by Commissioner Robinson.
Seconded by Commissioner Fraker.*

VOTE: *7 - 0 Motion carried.*

M. Industrial Termite Specialities Inc./Christopher Fanelli(President and APP)/Stephen Matheson (QP)/Robert Bernard(Vice-President and APP) - Case # 2004-002

MOTION: *To accept enforcement response program terms for the Business License and Applicator Bernard and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to send the case to the Office of Administrative Hearings, and to send Applicator Fanelli and Qualifying Party Matheson to the Office of Administrative Hearings by Commissioner Baker.
Seconded by Commissioner Runbeck.*

VOTE: *7 - 0 Motion carried.*

N. Orkin, Inc. dba Orkin Exterminating/James Krueger (QP)/Ronald Matthews (APP)/Curtis Lahti (APP)/Robert Stockmar (APP) - Case # 2002-121

Appearances by Steve Brietweiser, Regional Manager; Jim Krueger, QP; Curtis Lahti, Applicator; Ronald Matthews, branch manager; Robert Stockmar, Applicator.

Commissioner Peterson stated this is a unique settlement. Commissioner Baker asked how the advertisements are going. Mr. Krueger stated he has yet to hear the radio commercials and they do their own self audits. Commissioner Baker inquired about the clean-up of the contaminated soil. Vince Craig stated they have not received any information on the cleanup. There is also an issue when companies clean their vehicles and what they do with the soil. Commissioner Baker had a concern with the closeness of the school. Commissioner Baker asked if they disposed of the liquid sludge from the barrel. Mr. Krueger said they had. Commissioner Baker stated the right thing to do is to dig up some of the top soil at the site and write the Commission a letter if it is done.

The Commission complimented staff's negotiation of this resolution.

MOTION: To accept enforcement response program terms with the business, QP, Messrs Matthews and Stockmar and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to send the case to the Office of Administrative Hearings, and dismiss the case against Curtis Lahti, by Commissioner Fraker.
Seconded by Commissioner Runbeck.

VOTE: 7 - 0 Motion carried.

O. Joseph Strojny (App) - Case # 2004-060

Lisa Gervase stated they had a correction in this matter. The SPCC did receive his 2004 renewal but did not process it because of the failure to disclose a felony. Option #2 is not an option the Commission can consider since he did submit the renewal. The Commission can send it to hearing, but not suspend the license for non-payment of renewal fees. She recommends denying the renewal. Commissioner Runbeck stated the renewal was filed and fees paid but it is pending. Ms. Gervase said their information indicates Mr. Strojny is no longer in the industry and is not interested in renewing.

MOTION: To deny renewal of the Applicator License for failure to disclose a felony and dismiss this case without prejudice by Commissioner Runbeck.
Seconded by Commissioner Allen.

VOTE: 7 - 0 Motion carried.

P. University Termite & Pest Control, Inc./Richard Rupkey (QP)/Trent Rowley (APP) - Case # 2004-004

Scott Richardson, attorney representing the business and qualifying party appeared and stated this case should be dismissed.

Mr. Richardson stated this is the third jeopardy his client has been subjected to. This started many years ago with the issue of filing TARFs. After this was resolved, there was a long history of where is the check. Last July, the Commission called his client seeking payment. They came in with a cashiers check and paid in a timely fashion to Ms. Vazquez. They then received a letter stating they still needed to complete a field pretreatment class and three extra hours of continuing education. This was accomplished last summer and here we are again. Commissioner Baker

asked if the money was deposited and if the required classes were taken. Mr. Richardson stated they were. Commissioner Runbeck asked about the time frame with the 2001 Order. Ms. Gervase said the delay in processing the check was due to the check submitted was to pay for TARFs and did not include late fees. They did not cash the check because it was not for the full amount. The Order stated they had to pay the sufficient amount and they did not until their license was about to be suspended and have not completed the required class. Vince Craig stated the class they took was not the required course in Laws and Rules. Commissioner Allen asked if the continuing education was denied. Mr. Craig stated the class was added to the regular C.E. credits but did not go to comply with the Order. Mr. Richardson stated he taught a Laws and Rules class last fall and the QP attended. They could have easily submitted that class to satisfy the Order but no one told them about this until this matter came out on the agenda. Mr. Craig said the classes differ in their content and they need to take a class in Laws and Rules.

MOTION: To send Case # 2004-004 to the Office of Administrative Hearings by Commissioner Runbeck.
Seconded by Commissioner Robinson.

VOTE: 7 - 0 Motion carried.

IX. Unlicensed Activity Complaints

A. Landscapes "R"Us/Bill McPheron, Jr. (Owner)/Vicki Lynn McPheron (App) Case # 2004-019

MOTION: To accept proposed resolution and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to send the case to the Office of Administrative Hearings regarding Vicki McPheron, and to issue an unlicensed activity order against Bill McPheron and Landscapes "R US" by Commissioner Robinson.
Seconded by Commissioner Runbeck.

VOTE: 7 - 0 Motion carried.

X. For information and discussion, not action:

A. Complaint Status Log

Lisa Gervase stated they only have five to ten complaints that are more than six months old. They also have a ten percent increase in complaints in 2004 over 2003, and 174 inquires since 9/03.

XI. Felony Applicants

A. Bogguess, David Earl

tabled

B. D'Avola, Matthew Craig

tabled

C. Garrett, Mark Dale

Mr. Garrett appeared and answered Commissioners' questions. Attorney Scott Richardson appeared, representing the business and QP for whom Mr. Garrett works.

Commissioner Peterson asked Mr. Garrett what he has done since to better himself. Mr. Garrett said he disassociated himself from the people he used to hang out with and got married. Commissioner Runbeck asked if they reviewed the application in 1995. Robert Tolton stated applicants sometimes put the date of conviction instead of the date they reviewed the application. Commissioner Peterson asked if he had gone to anger management classes. Mr. Garrett stated he had a choice between an outpatient drug treatment or an anger management class and attended the drug treatment. He was released early from probation. He has a prior arrest for minor in consumption in his home state but has no felonies. Mr. Tolton stated the original application was not marked on the question whether Mr. Garrett had been convicted of a felony. The next question regarding the Commission reviewing the conviction was marked yes and a date was entered. Staff inquired with the date and discovered a felony conviction. Commissioner Runbeck stated the form is confusing and a change should be made to get clearer answers.

MOTION: *To approve applicant testing by Commissioner Runbeck.
Seconded by Commissioner Allen.*

VOTE: *7 - 0 Motion carried.*

E. Grayson, II, James Albert

Mr. Grayson appeared and answered Commissioners' questions. John Burns, Director of Operations for Burns Pest Control, employer also appeared.

Commissioner Runbeck asked Mr. Grayson if this is his only felony arrest. He stated it was. She asked if he attended any drug classes. He attended classes through DOC and has been sober. The drug paraphernalia charge stemmed from

him picking up his friend from a bar after she got into a fight with her husband. She had drugs on her and he put the drugs in his pocket. He forgot about the drugs and drove her to see her husband. The cops were there waiting and arrested him. He did not have a drivers' license. He has been with Burns for three months. His supervisor stated he is a model employee with excellent customer service.

MOTION: To approve applicant testing by Commissioner Baker.
Seconded by Commissioner Runbeck.

VOTE: 7 - 0 Motion carried.

F. Mauricio, Benjamin C.

Mr. Mauricio appeared and answered Commissioners' questions. Bert Putterman, President, Arizona Exterminating, employer, also appeared.

Commissioner Peterson asked if he has gone through treatment. Mr. Mauricio stated he has and has been sober since 1997. Commissioner Runbeck asked if he served any prison time. Mr. Mauricio responded he served two years. His supervisor stated Mr. Mauricio is a good employee and runs an excellent route.

MOTION: To approve applicant testing by Commissioner Runbeck.
Seconded by Commissioner Baker.

VOTE: 7 - 0 Motion carried.

G. Moffit, Duane Thomas

Mr. Moffit appeared and answered Commissioners' questions.

Commissioner Peterson asked if he has been in trouble since. Mr. Moffit stated he has not and this was his first offense. Mr. Moffit stated he was hanging around with the wrong people and he spent eleven days in jail which really changed his life. Commissioner Baker asked why he failed to appear for the meeting last month. Mr. Moffit responded at the time he was not sure he would pursue pest control work and later determined he would.

MOTION: To approve applicant testing by Commissioner Robinson.
Seconded by Commissioner Runbeck.

VOTE: 7 - 0 Motion carried.

H. Payne, Robert Douglas

Mr. Payne appeared and answered Commissioners' questions.

Commissioner Peterson asked if he had any troubles since 1973. Mr. Payne responded no. Mr. Payne stated the charges were broken down and the charge was buying stolen property.

MOTION: *To approve applicant testing by Commissioner Baker.
Seconded by Commissioner Runbeck.*

VOTE: *7 - 0 Motion carried.*

I. Schell, Matthew Stephen

Mr. Schell appeared and answered Commissioners' questions.

Commissioner Fraker asked why he has not paid his fines. Mr. Schell stated he has paid his fines but has not completed his community service. He is currently still on probation. Commissioner Peterson has a concern about the recent felony involving drugs. He paid the fee and has documentation. He has been clean for a year and completed an outpatient drug problem. His decision to enter pest control was because his brother was involved in the company. Commissioner Runbeck had a concern with the pre-sentence report because it stated a serious drug problem. Mr. Schell stated he changed the people he used to hang around with and does not even drink anymore. Commissioner Fraker stated he has not completed his community service and is still on probation. Commissioner Baker stated he is in the right direction and to come back at a later time and reapply after he has more information about his rehabilitation and a clean track record.

MOTION: *To deny applicant testing because the offense and conviction are recent; Mr. Schell has only had a year of being rehabilitated and has a serious substance abuse problem; Mr. Schell has not completed community service, is still on probation, and there is a question whether restitution was paid, by Commissioner Fraker.
Seconded by Commissioner Allen.*

VOTE: *6 - 1 Motion carried. (Commissioner Robinson opposed)*

J. Sixkiller, Jr., Jess Allen

Mr. Sixkiller, Jr. appeared and answered Commissioners' questions.

Mr. Sixkiller, Jr. stated this happened in 1979, has since gone through alcohol treatment and was sentenced to four years probation. He has countless hours of community service, has been married for 18 years, and has raised three honor students. Commissioner Peterson asked why the felony questions were marked no. Mr. Sixkiller, Jr. stated it was difficult to because he is ashamed. He passed the test with a high score and was before the Commission in the past. Commissioner Runbeck reminded Mr. Sixkiller, Jr. to disclose the felony conviction in the future.

MOTION: *To approve applicant testing by Commissioner Runbeck.
Seconded by Commissioner Allen.*

VOTE: *6 - 1 Motion carried. (Commissioner Fraker opposed)*

K. Yearwood, Arthur Guy

Mr. Yearwood appeared and answered Commissioners' questions. Joseph Granier, Supervisor, Superstition Springs Golf Course, employer, also appeared.

Commissioner Peterson asked if he spent any jail time. Mr. Yearwood stated fourteen months for selling drugs and guns. He has been clean and sober since 1996. He completed his three years of probation. Mr. Yearwood's supervisor, Joseph Klinger, stated he is a good employee, liked by everyone, has never had a problem at work, and is often the first one to show up. He does not see any continuation of any drug or alcohol problems with Mr. Yearwood. Commissioner Runbeck stated she is concerned with the pre-sentencing report that states a high risk to re-offend. Mr. Yearwood stated he stopped hanging around bad people and golf has become his passion and addiction leaving him no time for anything but golf and work.

MOTION: *To approve applicant testing by Commissioner Baker.
Seconded by Commissioner Robinson.*

VOTE: *7 - 0 Motion carried.*

XII. Recommended Decisions and Orders of the Office of Administrative Hearings (OAH) Administrative Law Judge (ALJs)

A. Cesar Arnaldo Reyes - OAH Docket # 03A-118-SPC/SPCC Case # 2003-118

Assistant Attorney General Christopher Munns stated the Commissioners have before them the Findings of Fact and Conclusion of Law and a recommended Order from an ALJ. Mr. Munns represented the Commission at a hearing and Mr. Reyes

admitted to practicing pest control without a license and falsifying treatment records. He has reviewed the documents and recommends the Commission adopt them.

MOTION: *To approve the Findings of Fact and Conclusion of Law by Commissioner Hartley.
Seconded by Commissioner Runbeck.*

VOTE: *6 - 0 Motion carried. (Commissioner Fraker recused himself)*

Mr. Munns added the ALJ included a recommended Order with a \$700 civil penalty, which is the amount he requested at hearing. \$400 for the unlicensed pest control and \$300 for falsifying two records. This amount is within the Commissions' statutory authorization and contends the Commission accept the Order. He stated a modification needs to be made to the Order. It states the Executive Director should impose the civil penalty. It should state the Commission shall impose the civil penalty.

MOTION: *To approve the Recommended Order with the modification the SPCC shall impose the civil penalty, by Commissioner Runbeck.
Seconded by Commissioner Hartley.*

VOTE: *6 - 0 Motion carried. (Commissioner Fraker recused himself)*

XIII. For information, discussion, and possible action:

A. Continuing Education Committee Minutes

Carl Martin stated the Commissioners have before them the minutes and he is available to answer questions.

MOTION: *To accept the Continuing Education Meeting Minutes, by Commissioner Runbeck.
Seconded by Commissioner Hartley.*

VOTE: *7 - 0 Motion carried.*

XIV. For information and discussion, not action:

A. Computer Based Testing "CBT" Status and Statistics

Carl Martin stated the Commissioners have before them the two month reports on the CBT statistics and he is available to answer any questions.

XV. Approval of Minutes

June 11, 2004 (regular session) Minutes

MOTION: *To approve the June 11, 2004 Minutes according to the attendance log of Commissioners present, by Commissioner Allen.
Seconded by Commissioner Hartley.*

VOTE: *6 - 0 Motion carried. (Commissioner Baker abstained)*

July 9, 2004 (regular session) Minutes

MOTION: *To approve the July 9, 2004 Minutes by Commissioner Hartley.
Seconded by Commissioner Allen.*

VOTE: *6 - 0 Motion carried. (Commissioner Runbeck abstained)*

XVI. Scheduling of future meetings/agenda items

Current Proposed dates and locations

September 10, 2004	Scottsdale, AZ
October 8, 2004	Tucson, AZ
November 12, 2004	Scottsdale, AZ
December 10, 2004	Scottsdale, AZ
January 14, 2005	Scottsdale, AZ
February 11, 2005	Scottsdale, AZ

XVII. For information and discussion, not action:

A. Expenditure Report

Lisa Gervase stated she did not have an expenditure report because they are so new into the fiscal year.

B. Case Status Report

Lisa Gervase stated a memo on the case status report indicates 64 active cases. They have cleaned up past cases and recently sent out letters to respondents with Orders in non-compliance. Ms. Gervase told the Commissioners they might hear

complaints because they are seeking to clean up old files and some cases are from the early 90's.

C. Applicator License Re Renewal Update - On-Line renewals, Paper renewals, and 7/16/04 reminder letters sent to applicators who had not renewed that retesting is required after 7/29/04.

Lisa Gervase stated out of the 6,256 applicator license renewals mailed out, 27.1% renewed using the on-line process. This was more than they expected. As of July 16, 943 applicators still had not renewed. Sixty days after expiration of a license, a licensee must retest to get a renewal. They sent reminder letters to the 943 applicators and 133 have since renewed before the deadline. The ones who did not renew their license is the average attrition in the industry. Commissioner Peterson complimented staff on their good work. Commissioner Robinson asked if they would get more than 50% of on-line renewals. Ms. Gervase stated they anticipated 100% of renewals on-line in the future.

XVIII. For discussion, consideration and possible action: Substantive Policy Statement Re: Termite Treatments/Abutting Slabs Rule - Policy Number 2004-003 [Rewritten from prior Commission meetings - prior drafts were numbered 2004-002.]

Lisa Gervase stated this has been rewritten to interpret the rule under roof as applies to all types of slabs. This seems to provide clarification to the industry.

MOTION: *To approve or implement this policy the way it is written with additional language by Commissioner Fraker.
Seconded by Commissioner Runbeck.*

VOTE: *7 - 0 Motion carried.*

XIX. Adjournment - 12:40 P.M.

MOTION: *To adjourn by Commissioner Runbeck.
Seconded by Commissioner Hartley.*

VOTE: *7 - 0 Motion carried.*