

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

**COMMISSION MEETING
FRIDAY, September 10, 2004 - 9:00 A.M.
MINUTES**

I. Call to order, Commissioner roll call

Commissioners Present: Commissioners Paul Baker, Mike Fraker, Robert Hartley, Jack Peterson, Virgil Robinson and Debbie Runbeck.

Commissioners Absent: Commissioner Tom Allen

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

II. Call to the public

Eugene Kraus, Parks and Landscape Supervisor from the City of Peoria, requested that the Commission consider his application for QP licensure in the "B1" category. He has been approved to take the QP exam for "B3" and "B5". He has certification in the area of public health and CEUs in "B1" for the past 12-13 years. Due to the fact that he wasn't actually physically applying pesticides in the "B1" category, he was informed that he would not be able to get a QP license in the "B1" category. Christopher Munns stated to Commissioner Peterson that we could address this issue when the agenda item (IV.C.7) comes up.

Doug Pinnecker, Vice President of Contractors Termite and Pest Control, requested that the Commission agendaize for future discussion, the "3^d Occurrence Rule". Specifically, Mr. Pinnecker wanted some substantive policy discussion of what an occurrence is. He stated that the industry and consumers need to correct the rule because they don't want to be drilling holes in peoples' houses unnecessarily. Commissioner Peterson said that we could probably put that on a future agenda.

III. Communication with Commissioners

Lisa Gervase directed Christopher Munns to give the Commissioners an overview of the scope of work involved with regard to "B2" and "B8" licensing, because some people are just applying for licensure in one, but not both, categories. There is still some confusion about the scope of work with regards to wood-destroying insect inspection and control.

Christopher Munns stated the law allows QPs or applicators to apply for licensure in more than one category. An applicator with "B2" can only do control work. An applicator with "B8" cannot do wood destroying insect inspections or treatment proposals without also having the "B2" category and the additional hours of training. There is no such restriction put on the QP by statute. Mr. Munns said that "B8" licensure for a QP is sufficient for a business to do inspections and treatment proposals, and that the QP doesn't also need a "B2" license, unless the business also does "B2" work. If the business is doing inspections, Mr. Munns said that the QP only needs a "B8", not also a "B2". They will need a "B2" for control work, but the law as it is written doesn't require both.

Commissioner Peterson asked why anyone would want to get just a "B8". Is there any practical reason?

Robert Tolton stated that people who just wanted to do home inspections could do this, and also that some people only pass the "B8" exam first. Even though they may eventually want to do other categories of work, they at least want to get their business started.

Commissioner Hartley was concerned that someone could qualify a business with a "B8" only and have applicators that do "B2" and "B8" work. Christopher Munns clarified that if a QP doesn't have a "B2", then the business and its applicators can't do "B2" business. If an applicator has a "B2" and a "B8" and the QP has a "B8", then the business can do inspection work, but no control work.

Commissioner Hartley stated that it doesn't make sense just to have a B8.

Commissioner Peterson stated that they can do WDIIRs, but just can't do control work.

Commissioner Fraker asked if someone with a "B8" could do a wood report?

Christopher Munns stated that an applicator with a "B8" only can't do a WDIIR. If the QP with a "B8" only is managing applicators with "B2" and "B8" and the appropriate education, then the business can do a WDIIR.

Commissioner Hartley stated that perhaps the rule that says that QPs must be

qualified in all categories in which the business intends to do business, conflicts with the statute that Mr. Munns addressed.

Commissioner Runbeck stated that there still seems to be confusion, so maybe we should address this at another time or during Executive Session.

Commissioner Peterson stated that this was a good idea, but asked if we needed to go into Executive Session now.

Commissioner Hartley stated that there are issues in the consent agenda that touch on this.

Commissioner Peterson requested someone to make a motion to go into Executive Session.

MOTION: To go into Executive Session by Commissioner Runbeck.
Seconded by Commissioner Fraker.

VOTE: 6-0 Motion carried.

Executive session lasted from 9:20 AM-9:30 AM.

Commissioner Peterson called the meeting back to order at 9:30 AM.

IV. Consent Agenda

A. Applications for New Business License

Qualifying Party

- | | |
|---------------------------------|--|
| 1. France, Scott Michael | Care-Free Termite Protection, LLC.
(Activating Qualifying Party for new
business license in "B8" Wood
Destroying Insect Inspection) |
|---------------------------------|--|

Pulled

Lisa Gervase stated that Mr. France is currently applying to activate in "B8" but the application is also for "B2". He just hasn't passed the B2 exam yet. Robert Tolton stated that Mr. France has applied for "B2" and "B8" QP licenses, and that he is in a 90-day waiting period to take the "B2" exam again. He submitted the application, at which time Robert Tolton informed

him that he can only do inspections, but no control work. Commissioner Hartley stated that Mr. France can't do wood reports unless he has appropriate applicator licenses. Robert Tolton stated that Mr. France does have applicator licenses in "B2" and "B8" because he needed these in order to apply for the "B2" category of QP license. Robert Tolton stated that Mr. France has taken the B2 exam three times but has not passed yet. Commissioner Baker expressed some concern about Mr. France not passing the exam.

MOTION:

To approve activating QP for new business license in "B8" by Commissioner Hartley.
Seconded by Commissioner Runbeck.

VOTE:

6-0 Motion carried.

2. **Gehrke, Robert Frank** **Bobb's Original Pest Control, LLC. (Activating Qualifying Party for new business license in "B1" General Pest/Public Health)**
3. **Gloria, Peter Alfonso** **Convenient Termite & Pest Control (Activating Qualifying Party for new business license in "B1" General Pest/Public Health, "B2" Control of Wood-Destroying Insects and "B8" Wood Destroying Insect Inspection)**
4. **MacKenzie, Kelly John** **Kelly's Pest Solutions, LLC. (Activating Qualifying Party for new business license in "B1" General Pest/ Public Health)**
5. **Perone, Robert Gennaro** **Jitterbug Pest Solutions (Activating Qualifying Party for new business license in "B1" General Pest/Public Health)**
6. **Seemann, Douglas Lee** **Adobe Pest Control (Activating Qualifying Party for new business license in "B1" General Pest/Public Health)**

Health, "B2" Control of Wood-Destroying Insects, "B3" Right of Way/Weed Control, "B5" Turf & Ornamental Horticulture and "B8" Wood Destroying Insect Inspection)

Pulled - Mr. Seemann appeared.

Lisa Gervase stated that Mr. Seemann is here, and that she wanted to let the Commission know that they will be seeing Mr. Seemann's name on a future agenda. There is a complaint pending against the former company (American Environmental) that Mr. Seemann owned, for failure to file TARFs. Mr. Seemann closed the door on that business because of financial problems. Although he has now filed the TARFs, he probably won't be able to pay the fees. This will be the subject of the future complaint. Activating his QP license for this business will not give him responsibility for filing TARFs. He will just have supervisory, technical, training roles. Commissioner Runbeck asked who will have the responsibility for filing TARFs. Mr. Seemann stated that Brent Storms, who is new to the industry and who is coming off of several successful businesses, will have that responsibility. Mr. Seemann stated that Mr. Storms needed help setting up the technical portions of his business, and that Mr. Seemann is working about half time for Mr. Storms. Mr. Seemann stated that Mr. Storms was on his way to the meeting right now, but had vehicle trouble. Commissioner Fraker stated that the business is in Payson, and Seemann lives in Tucson, and asked if Mr. Seemann will be active in the daily business from Tucson. Mr. Seemann replied that he will be active in the business approximately ten days a month. Commissioner Peterson then asked when the TARFs were filed, and what brought about filing. Lisa Gervase stated that Mr. Seemann came to her and disclosed the problems of American Environmental, the prior business, and further stated that he came in and took over from people who ran the business into the ground. He found that TARFs were not filed, and then submitted all TARFs. Lisa Gervase stated that there are between \$18,000-\$19,000 fees and late fees outstanding, that staff was still researching as to whether final grades need to be done, and that a complaint was pending on Mr. Seemann's former company. Mr. Seemann stated that he approached Lisa about eight months before shutting down and selling the business, that probably no more than nine of these TARFs were for pre-treats, and that everything else was for corrective work. Commissioner Robinson asked Mr. Seemann if he had a financial interest in the previous company. Mr. Seemann replied that he did, that he was a part owner, and that he had an accountant with different priorities. He also stated that he had employee problems with theft. Specifically, an employee was having Mr.

Seemann sign checks that were supposed to be going toward TARFs, but then the employee made the checks out to himself, and then the employee left when "it was going to come down around his ears". Commissioner Peterson asked Mr. Seemann if he was going to prosecute the former employee. Mr. Seemann stated that he doesn't have the funds to do that, and that his partner declined to do that. Mr. Seemann stated that the Commission has since given the former employee a QP license, so he is out there somewhere. Commissioner Runbeck asked Mr. Seemann if he was not aware that the TARFs weren't being filed. Mr. Seemann stated that when he became aware, the company was going into bankruptcy, and he had other debts to pay off, like taxes, checks that had gone to the former employee instead of the proper source. Mr. Seemann stated that he notified the Commission when he became aware, but paying the taxes was a higher priority because they can shut him down more quickly than the Commission is willing to do. Mr. Seemann stated that he believed this because his record with the state and Commission is good, he has been around for a long time and done many positive things for the industry, such as writing books, speaking at training sessions, etc. Commissioner Runbeck asked if the other tarfs were filed as they came up once Mr. Seemann was aware of the problem during that year and a half that he tried to get the company back on its feet. Mr. Seemann stated that he started filing TARFs and notified the Commission when he had TARFs but didn't have the money to pay them. Commissioner Runbeck stated that she was concerned, because we don't want to encourage people to not file TARFs, shut down their business and then start a new business. Mr. Seemann stated that it was not his business, and that he was in this primarily as a consultant. Commissioner Fraker asked about Mr. Storms' background. Mr. Seemann stated that Mr. Storms has been certified for over a year, had successful businesses, but doesn't have any pest control experience yet. Mr. Seemann stated that he was training Mr. Storms in the pest control business. Commissioner Fraker asked who in Payson would be making the daily decisions regarding applications, rules and regulations. Mr. Seemann stated that Mr. Storms will, that he is certified and is the president of the company, and that Mr. Seemann will be available, providing instruction and field training. Commissioner Fraker asked if Mr. Seemann is a party to a future complaint as a business licensee. Lisa Gervase stated that, as a partner of the former business, he will be. Lisa Gervase stated that she asked him to dig through files and get TARFs in the system for the benefit of the public even though she knew she would probably be doing that without collecting fees because of the bankruptcy status of the business. That is yet to be worked out. Mr. Seemann stated that he wants to add that there never was a complaint issued by a customer against Mr. Seemann. Mr. Seemann also stated that he was the QP during

the time of non-filing of TARFs. He stated that he brought on an accountant, so he thought he had all the bases covered. Commissioner Hartley stated that he was able to separate the two, that he was satisfied that Mr. Seemann was not trying to do an end run from a bankrupt business to a new business. He stated that he thinks Mr. Seemann has had a problem but is trying to fix it by being a QP. This is what we encourage people to do, and Mr. Seemann is qualified. Commissioner Robinson asked who will pay the \$18,432 for TARFs. Lisa Gervase stated that probably no one will, but that is yet to be worked out. She stated that she would research the bankruptcy case, but conceded that we are not a top priority in the bankruptcy system. She stated that we may need to discipline the former business license.

MOTION: *To approve activating QP for new business license in "B1," "B2," "B3," "B5," "B8" by Commissioner Hartley.
Seconded by Commissioner Runbeck.*

VOTE: *6-0 Motion carried.*

B. Applications to activate Qualifying Party for Existing Business License

- 1. Dawson, Patrick E.** **Atomic Pest Control (Activating Qualifying Party for existing business license in "B2" Control of Wood-Destroying Insects and "B8" Wood Destroying Insect Inspection)**

- 2. Feuillet, Eben Sief** **IPM Solutions (Activating Qualifying Party for existing business license in "B2" Control of Wood-Destroying Insects)**

Pulled - Mr. Feuillet appeared.

Robert Tolton stated that a few months ago the Commission approved Mr. Feuillet to activate in the "B1" and "B8" categories, and that Mr. Feuillet was in a 90-day waiting period to apply to retest for the "B2" exam. Commissioner Peterson asked for clarification of the fact that Mr. Feuillet has qualified in "B1" and "B8", and that he was just waiting to qualify for "B2". Mr. Feuillet stated that this was correct. Commissioner Peterson asked if the other Commissioners understood Mr. Feuillet's insurance certification, and if there was anything that discusses endorsements. Robert Tolton stated that Mr. Feuillet is covered. Lisa Gervase stated that under forms and

endorsements, the PC0-ML plus number is in our file, but she did not provide this to the commissioners because it's already an existing business.

MOTION: *To approve activating QP for existing business license in "B2" by Commissioner Hartley. Secoded by Commissioner Runbeck.*

VOTE: 6-0 *Motion carried.*

3. Hamilton, Kevin Deane Preferred Pest Control (Activating Qualifying Party for existing business license in "B2" Control of Wood-Destroying Insects and "B8" Wood Destroying Insect Inspection)

4. Lomeli, Jeremiah Bryant Paul's (Activating Qualifying Party for existing business license in "B7" Fungi Inspection)

Tabled until discussion of agenda item VII.D (complaint against Paul's, Cases 2003-001 and 2004-072). Mr. Lomeli appeared.

Based on the serious violations in Cases 2003-001 and 2004-072, Commissioner Hartley expressed to Mr. Lomeli that he needs to understand that Fungi inspections need to be done with integrity, as there is so much potential for abuse. Mr. Lomeli acknowledged Mr. Hartley's advice.

MOTION: *To activate QP for existing business license in "B7" by Commissioner Hartley. Secoded by Commissioner Runbeck.*

VOTE: 6-0 *Motion carried.*

5. Moore, Gina Lorine Moore's Family Termite Control (Activating Qualifying Party for existing business license in "B1" General Pest/Public Health)

6. Pinnecker, Douglas Keith Contractors Termite & Pest Control, Inc., (Activating Qualifying Party for existing business license in "B1"

General Pest/Public Health, "B2" Control of Wood-Destroying Insects and "B8" Wood Destroying Insect Inspection)

C. Applicants for QP Licensure

Before addressing this agenda item Commissioner Baker asked a question about Letters of Recommendation. He wanted to know if they are required. Lisa Gervase stated that Letters of Recommendation are not a legal requirement. Commissioner Baker stated for clarification that in some cases there will be a letter, but in some cases there won't. If there is a letter, the letter should have "some meat in it", and not just state that an applicant is a nice person. Lisa Gervase stated that because we can't require letters, we can't require what is in them.

- 1. Brown, Kevan Charles "B3" (Right of Way/Weed Control)**
- 2. Cluff, Claud Eldred "B3 and B5" (Right of Way/Weed Control and Turf & Ornamental Horticulture)**
- 3. Elkins, Ronald Frank "B1 and B3" (General Pest/Public Health and Right of Way/Weed Control)**
- 4. Gibbs, Gary Scott "B1" (General Pest/Public Health)**
- 5. Janson, Steven William "B4" (Fumigation)**
- 6. Jenkins, Jeffrey Brian "B9" (Aquatic Pest Control)**
Pulled - Mr. Jenkins appeared.

Commissioner Robinson stated that Mr. Jenkins was just licensed in June 2004, so questioned how he obtained 9,000 hours of experience. He asked if Mr. Jenkins was working in another state or in Arizona without a license to get the 9,000 hours. Mr. Jenkins stated that he wasn't doing herbicide or algicide applications. He was working with two companies for the past fifteen years doing lake management and applications to cooling towers, boilers, and water features. Commissioner Robinson asked if he had been doing that without a license. Mr. Jenkins stated that a license was not required by the State of Arizona in that realm. Cooling towers and boilers

have been using algicides since day one. It's kind of like a pool company doing oxidizers, etc., but they aren't under SPCC jurisdiction. Mr. Jenkins stated that he has been doing applications in water features, but in lake management, was not using chemicals. He further stated that his background in chemistry is strong. He would like to start a lake management company with the correct licensing and backing, and wants to do everything correctly.

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

VOTE: 6-0 Motion carried.

7. Kraus, Eugene Harvey "B3 and B5" (Right of Way/Weed Control and Turf & Ornamental Horticulture)

Pulled - Mr. Kraus appeared.

Commissioner Peterson reiterated from the "Call to the public" that Mr. Kraus wanted to be licensed in the "B1" category also. Lisa Gervase stated that we don't have any documentation of experience for the "B1" category, so the Commission would have to entertain a verbal amendment. They could approve pending verification of experience. Mr. Kraus asked if the verification that is currently submitted with the application is sufficient. He stated that earlier he shared with the Commission that even though he has been certified in "B1" since he was certified with the state in 1992, the QP he worked under for the City of Scottsdale was not for general pest. He stated that he did not apply any general pest herbicides, and has maintained that category for the past thirteen years. He admitted that he does not have field application in that area, but he does have education to back it. Lisa Gervase asked if he meant that he had CEUs, and Mr. Kraus replied that he did, over the past twelve years. Commissioner Peterson asked if there was someone to sign off on Mr. Kraus' experience, such as a supervisor to vouch for him. Mr. Kraus said that there was, for turf and ornamental, and rights of way and weeds in excess of the 3,000 required over the past five years. Commissioner Hartley stated that he doesn't see evidence of the requisite field experience, and this is the name of the game. He needs to be out there and service people. Mr. Kraus stated that A.R.S. § 32-2314 states that there must be sufficient education or experience, but nowhere states anything about "field application". Commissioner Runbeck stated that the statute goes on to state that you have to show either 3,000 hours of practical experience or 2,000 hours of practical experience and twelve semester hours or its

equivalent of education. Mr. Kraus won't be able to meet these requirements at this point in time.

MOTION: To approve QP testing in the "B3" and "B5" categories only by Commissioner Robinson. Seconded by Commissioner Hartley.

VOTE: 6-0 Motion carried.

8. Maglanoc, Lee Tanpo "B1, B2 and B8" (General Pest/Public Health, Control of Wood-Destroying Insects and Wood Destroying Insect Inspection)

9. Pittman III, Thomas O. "B1" (General Pest/Public Health)
Pulled

Commissioner Robinson stated that Mr. Pittman's application shows that he wants a license for "B1" and "B2", but that staff has only asked us to consider "B1", because he only has 1,500 hours experience in the "B2" category. Robert Tolton stated that Mr. Pittman submitted his application for "B2" also, and we notified him verbally that he doesn't meet the qualifications for "B2", so he would only be approved for "B1".

MOTION: To approve QP testing in the "B1" category by Commissioner Robinson. Seconded by Commissioner Fraker.

VOTE: 6-0 Motion carried.

10. Wood, Clark Edward "B1 and B9" (General Pest/Public Health and Aquatic Pest Control)

D. Request for Company Name Change

1. Camoa Enterprises, Inc. dba Aztech Pest Control to Aztech Pest Control

End of Consent Agenda

MOTION: By Commissioner Hartley to accept Consent Agenda

with the exception of those items pulled for discussion (A1, A6, B2, B4, C6, C7, C9).
Seconded by Commissioner Fraker.

VOTE: 6-0 Motion carried.

V. For review, consideration and action: Commission's reconsideration of denial of temporary qualifying party renewal based on new information, and possibly activating qualifying party license in "B3 and B5" categories for existing business license The Pointe of South Mountain.

A. Langdeau, Philip Dale The Pointe of South Mountain
Mr. Langdeau appeared.

Lisa Gervase stated that at the July Commission meeting the Commission denied Mr. Langdeau's request to renew his temporary QP, he filed a timely appeal and has since passed all the exams. First, he is requesting reconsideration of his denial and second, he is also wanting to activate his QP license in the "B3" and "B5" categories for an existing business license, The Pointe of South Mountain. Lisa Gervase stated that staff needs information about who the business license owners, partners and officers are, so we can contact them. The contact person cannot just be a QP. Mr. Langdeau stated that he has a piece of that information. Commissioner Peterson questioned why we needed to reconsider, guessing that it was because Mr. Langdeau wanted a clean record without any denials showing up. Mr. Langdeau stated that this was his chief concern. Commissioner Peterson stated that there were two issues: First, do we want to reconsider, and second, if we reconsider, then do we approve his QP?

MOTION: To reconsider the denial of the temporary QP by Commissioner Hartley.
Seconded by Commissioner Runbeck.

VOTE: 6-0 Motion carried.

Lisa Gervase stated that we would need to vote on activating the "B3" and "B5" categories of his QP for The Pointe of South Mountain resort contingent on staff getting all of the data we need on who the business licensee is. We don't have to approve the temporary QP anymore because he has passed the exam, so by reconsidering the denial we have removed the denial in a sense.

MOTION: To activate his QP for "B3" and "B5" provided he provide the information by Commissioner Baker.

Seconded by Commissioner Runbeck.

VOTE: *Motion and Second withdrawn.*

Commissioner Hartley stated that the motion was to review, not to remove the denial. Christopher Munns stated that it would be cleaner to remove the denial and then proceed on to activate him. Commissioner Hartley stated that he wants Mr. Langdeau to follow procedure like everyone else, and for the request to activate to on next month's agenda after he gets the paperwork about the business licensee into Lisa Gervase. Commissioner Runbeck questioned whether Mr. Langdeau's temporary QP would be valid to the next meeting for him to make a formal application to activate. Lisa Gervase replied that his temporary QP is valid until his appeal time runs. He passed the exams, so he wants the denial removed. He also wants his QP activated for the "B3" and "B5" categories for this business. And Lisa Gervase wants the information on the business so she knows who to send notices to. Commissioners Baker and Runbeck withdrew the motion and second.

Mr. Langdeau added that he currently resigned as an employee of the resort. The previous QP resigned during his application process for QP originally, and that is how Mr. Langdeau got thrown in to the position as QP at The Pointe. Shortly after, Mr. Langdeau was hired on at another golf course facility and agreed to clean up the business license issue and pursue the QP there as long as he could. Now he needs to activate his QP at the new golf course facility for the October agenda and in October disassociate as the QP for The Pointe.

MOTION: *To reverse denial of temporary qualifying party renewal, withdraw that denial, and activate QP license in the "B3 and B5" categories, pending the submission of appropriate documentation of the identity of the Business Licensee to staff, by Commissioner Hartley.
Seconded by Commissioner Baker.*

VOTE: *6-0 Motion carried.*

VI. For review, consideration and action: Commission's consideration of Informal Settlement Conference proposed resolution re: denial of felony applicator application.

A. Sotelo, Guillermo

Mr. Sotelo, Mr. Ehrlich (Yuma County Adult Probation Officer), and Mr. Williamson (owner/QP of Desert Web Exterminating) appeared.

Lisa Gervase stated that Mr. Sotelo's applicator license application was denied in

June. He filed a timely appeal, had an informal settlement conference with staff and staff contacted his previous employers. More information was obtained than what he provided in June. The Informal Settlement Conference proposal is that if he passes the licensing exams, his applicator license would immediately be placed on probation, running currently with his criminal probation, which runs through September or October of 2006. There would also be certain terms of probation, which are listed in the memo given to the Commissioners. Commissioner Runbeck stated that there was a note about confidential documents to be reviewed in Executive Session, and that she wanted all information before making a decision. Lisa Gervase stated that she reviewed all of those documents, and that Mr. Sotelo's random urinalyses were clean. She also stated that Mr. Sotelo's Adult Probation Officer John "Mike" Ehrlich from Yuma County came to vouch for him, and submitted an April 2004 letter regarding the compliance of Mr. Sotelo. Commissioner Peterson asked how the Commission would know if Mr. Sotelo complied in the future with his probation terms. Lisa Gervase stated that we can require him to submit a compliance letter from Mr. Ehrlich every three months. Mark Williamson, Owner of Desert Web Exterminating, stated that he has been Mr. Sotelo's employer for 6-7 years. He stated that it is hard to get skilled employees in Yuma, and that he has never had a problem with Sotelo with theft or punctuality. Mr. Williamson stated that Mr. Sotelo told him about his drug problem, and that he would know of any problems before the Probation Officer would. Mr. Williamson also stated that he would be willing to provide a report for Mr. Sotelo.

MOTION: To review the denial by Commissioner Hartley.
Seconded by Commissioner Baker.

VOTE: 6-0 Motion carried.

Mr. Ehrlich stated that Mr. Sotelo has waived his confidentiality rights and speaks openly about his past drug use. Commissioner Runbeck asked Mr. Ehrlich to explain what makes him so confident that Mr. Sotelo is okay, and that he won't have problems again. Mr. Ehrlich stated that you can never be totally sure, but Drug Court is difficult, and Mr. Sotelo asked to come into Drug Court. He also stated that Mr. Sotelo has not used drugs whatsoever since he has been supervising him. Mr. Ehrlich also respects his honesty. Drug Court in Yuma is designed to be one year. We've added an extra six months of aftercare. Finally, Mr. Ehrlich stated that Mr. Sotelo could stay in longer if the Commission wants him to, because he wants to get that license. Commissioner Runbeck asked Mr. Sotelo how he felt off drugs. Mr. Sotelo stated that he feels better, makes better decisions, and has better relationships with his kids. Commissioner Peterson expressed concern that Mr. Sotelo has only been clean a short time, and asked Mr. Sotelo if he would be willing to stay on probation. Mr. Sotelo stated that would be fine. Lisa Gervase stated that

it sounds like the Commissioners want a few extra things such as appearances, letters from the Probation Officer and employers, etc.

MOTION: *To approve Mr. Sotelo's applicator license with the terms that were proposed in the memorandum that is in the Commission Book, as modified by Lisa Gervase regarding additional reporting and appearances before the Commission.
Seconded by Commissioner Baker.*

VOTE: 5-0 *Motion carried. (Commissioner Robinson abstained)*

(Break from 10:35 A.M. to 10:45 A.M.)

VII. Complaints against Licensees

A. Arizona Rainfall Weed Control Services/John Gerodimos (Owner and QP) - Case # 2004-017

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, by Commissioner Robinson.
Seconded by Commissioner Hartley.*

VOTE: 6-0 *Motion carried.*

B. Christopher S. Cazier (App) - Case # 2003-131

Commissioner Peterson clarified that the company had been dealt with previously.

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

VOTE: 6-0 *Motion carried.*

C. Knight Pest Control/Leonard Knight (Owner and QP)/Doug Gummerson (App) - Case # 2004-027

Mr. Gummerson appeared.

Dave Colvin stated that a settlement conference was conducted with Mr. Gummerson, but no proposed terms were agreed on. So, the options are to send

it to hearing, or to send it back to a second settlement conference. Commissioner Robinson stated that what he gathered from reading this file is that Mr. Gummerson felt he did nothing wrong. Mr. Gummerson replied that this was incorrect. In fact, he did not read the pesticide label thoroughly enough. It said that the product was not to be used in food-service areas. He stated that his treatment of the Subway restaurant was okay up until point that he went behind the counter. At that point there was a six-foot area and a crack where he sprayed. Nevertheless, Mr. Gummerson stated that he wanted the civil penalty reduced from \$200, because such a small amount was applied. Commissioner Peterson asked if Mr. Gummerson would prefer to go to hearing rather than pay a \$200 penalty. Mr. Gummerson stated that for QP Leonard Knight, staff reduced the penalty from \$800 to \$400, and so he wondered why staff couldn't reduce his to a \$50 civil penalty. Mr. Gummerson stated that this process leaves a mark in his mind as far as learning a lesson: read the label fully before applying. He further stated that he hasn't been applying pesticides since this incident, even though he is currently licensed, and is on call with Mr. Knight. Commissioner Runbeck asked if the thought process was \$100 for each violation. Dave Colvin said that this was the thought process, and that the same logic was applied to all parties in coming up with proposed terms. Commissioner Peterson stated to Dave Colvin that staff needs to be conscientious of being consistent with their terms/penalties, because they are reviewed by the EPA also. Dave Colvin stated that is why we use the Matrix. Commissioner Hartley asked Mr. Gummerson if he knew how the Matrix was used. Commissioner Hartley then explained that the matrix tries to create a standard of conformity, reduces subjectivity, and satisfies EPA requirements. He then asked if we show people the Matrix. Lisa Gervase stated that we absolutely do, and that it's a public document. Commissioner Hartley then stated that Mr. Gummerson should be acquainted with the Matrix, because that's how staff gets to the bottom line, and that a \$200 penalty is probably a favor. Commissioner Hartley stated that he doesn't disagree with it, and that the Matrix took a lot of time to develop. Commissioner Baker asked if there are things in the settlement conference that are automatically communicated to people, such as the Matrix. Dave Colvin stated yes, and that a settlement conference is stopped when a respondent doesn't want to accept anything at all. Commissioner Baker then stated that even if individuals don't understand the Matrix, they at least need to have access to it during settlement conferences, that this was the Commission's responsibility. If a person comes up and says they don't even know what the Matrix is, this indicates lack of communication. Commissioner Runbeck stated that the settlement for the BL and QP is in accordance with the Matrix, that Mr. Knight's penalty was in accordance with the Matrix, and that \$200 against Mr. Gummerson is fair. She stated that she eats at Subway and doesn't want pesticides sprayed on her food. Mr. Gummerson stated that he has already invested \$200 in this process, and that compared to his experience in the insurance industry, his meeting with Mr. Colvin wasn't really a settlement conference. He stated that Mr. Colvin gave him terms and said that if he didn't agree then we go to

hearing. Commissioner Peterson stated that in a settlement conference they could decide that there were aggravating circumstances, and the Commission could review it and say that is a personality conflict instead and there shouldn't have been any aggravating circumstances. But here, there is not much out of the ordinary and no aggravating factors anyway. He stated that we can modify this and send Mr. Gummerson back to staff or go to hearing. Lisa Gervase stated that we can do a verbal modification here on the record if Mr. Gummerson wants to accept proposed terms. She stated that she wants to make sure people understand that if there is an alleged violation, in order to impose discipline on a licensee, there are two things involved. First, we can settle and sign a Consent Agreement, or, second, if there is no agreement reached then the matter is sent to formal hearing in front of an Administrative Law Judge. If this matter is not settled here today, then it needs to go to hearing. We use these guidelines, the Matrix, to guide us. Here, there are not many facts, aggravating or mitigating, to do much negotiation. Mr. Gummerson stated that he doesn't currently practice pest control, and that \$200 is a lot of money right now. He stated that he would rather give up his license than pay the \$200 because he washes windows now anyway. Lisa Gervase stated that a license is hard fought for, and that she doesn't advocate someone giving up license for something like this. Commissioner Peterson stated that people have paid incrementally as well, including having payment plans. Lisa Gervase stated that Mr. Gummerson may want to use his license in the future even though he doesn't use it now. Commissioner Runbeck told Mr. Gummerson that if he changed his mind in the future and decided he wanted to apply, and the Commission then sees that his license was revoked for a violation, it will be hard to get a new license. Mr. Gummerson stated that he would still be willing to do that, even though others didn't agree with him. Commissioner Runbeck suggested that they could invoke a fine, and if he doesn't pay, then his license could be revoked for that. Lisa Gervase stated that there may be other things that can be done in lieu of a fine if Mr. Gummerson has a financial hardship, or a payment plan could possibly be worked out. Mr. Gummerson stated that he was just trying to catch up financially. Commissioner Fraker asked Mr. Gummerson if he would be willing to go back to a settlement conference and try to come to an agreement with staff, now that he is more informed about the details of the situation. Mr. Gummerson stated that staff said they can't change what the Matrix puts out for them. Commissioner Fraker suggested that with a settlement conference there was a possibility for compromise, and that this would be the easiest process for Mr. Gummerson. Mr. Gummerson expressed that he didn't want to have to take a day off from window washing to do this. Lisa Gervase stated that settlement conference could be conducted by phone. Mr. Gummerson stated that he doesn't want to give up his license and get charged for it. Commissioner Peterson stated that what he was hearing was that staff is willing to work with Mr. Gummerson. He recommended resolving it with staff instead of going to hearing, and not giving up his license, because times change, and he may want to be an applicator again some day. Otherwise, we will send it to hearing,

and then a judgment could be hanging over Mr. Gummerson. Mr. Gummerson stated that he would rather have the process stop here today, but that he feels everyone's hands are tied by the Matrix. Commissioner Peterson stated that we can suspend penalties for a probationary period, that we could suspend the penalty for a year. Lisa Gervase stated that she would prefer talking to Mr. Gummerson a bit more, by phone or by tabling it, and that the Commission can accept the agreement for the BL and QP and send Mr. Gummerson's portion back to settlement conference.

MOTION: To accept enforcement response program terms for the Business License and Qualifying Party and that the Licensed Applicator be sent back to Settlement Conference and if a Consent Agreement is reached and 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 Runbeck.

VOTE: 6-0 Motion carried.

While discussion of agenda item VII. E. was ongoing Lisa Gervase talked with Mr. Gummerson and asked if the Commission would be inclined to reconsider their prior motion to entertain a possible settlement as far as his applicator license was concerned. Lisa Gervase stated that based on the limited application, if any, to the crack behind the counter of the food-handling area, Mr. Gummerson is willing to obtain 3 hours CE in addition to the renewal requirement and pay a \$50 civil penalty.

MOTION: To reconsider by Commissioner Runbeck.
Seconded by Commissioner Robinson.

VOTE: 5-0 Motion carried. (Commissioner Hartley out of room)

Commissioner Peterson asked if there were photos in the investigative file, and Mike Francis said that there were none in the file. Mr. Gummerson said he was not sure if he even sprayed behind counter, that if there was no break then he didn't spray. Commissioner Fraker asked how many stores Mr. Gummerson sprayed, to which Mr. Gummerson replied, "Two." Commissioner Fraker stated that you can't zero in on a certain area to justify the use of a product in a food-service area that is not registered for that type of treatment. This is not an acceptable excuse. Commissioner Peterson stated that he agreed with Commissioner Fraker. He stated that \$50 is too light, but that he wouldn't object.

MOTION: To add to the first motion, to accept the recommendations of staff for

a \$50 civil penalty and 3 hours of CEUs against Mr. Gummerson, by Commissioner Runbeck.
Seconded by Commissioner Robinson.

VOTE: 5-1 Motion carried. (Commissioner Baker opposed)

D. Paul's Pest & Termite Control/Paul J. (Pete) Vanassee II (Owner and QP)/Gary Fortune (App)/Patrick Ellis (App) - Case #s 2003-001 and 2004-072

Scott Richardson, attorney for the business and QP, appeared. Messrs. Vanesse, Fortune, Ellis and Lomeli appeared.

Commissioner Hartley stated that what concerned him in reading the complaint is that the consumers have been hoodwinked in some way. It is a principle mission statement of this organization to see that this doesn't happen. Mr. Lomeli is asking to activate his QP for fungi inspection into a company that somehow deceived consumers. Commissioner Hartley stated that we would be expanding the company, and so he wants to hear a lot about the complaint. The issue is that a new QP is being brought into a business that has an egregious complaint against it with a history of hoodwinking consumers. Mr. Richardson took exception to the statement that the company hoodwinked consumers, and stated that the company was actually exonerated in many respects. What happened was that when the company found out about the problems through the QP they immediately took care of the consumer. He stated that they started with the Matrix in settlement conference, and Mr. Richardson said years ago that the Matrix is there for consistency, and represents something of a guideline. He stated that he has espoused the idea that there are things that can be done by a company not ordered by the Commission or Office of Administrative Hearings that may be more worthwhile, more practical and more realistic. We have the opportunity to go beyond the mere monetary fine. Monetary terms only is not the smart way to settle cases. He stated that if the EPA was here, they would applaud some of the efforts made by staff to go beyond the Matrix. There is a fine and Administrative Warnings to the QP and BL, but Mr. Richardson stated that he has offered to give a 2-hour course in laws and regulations approved by the Commission. He stated that it is a significant, intensive course, and that a lot of people in this room have taken it. Mr. Vanasse agreed to do these types of proactive things. This speaks volumes about the goodwill of the company, and this shouldn't impact Mr. Lomeli. Commissioner Peterson asked if the business has changed the way it operates. Mr. Vanasse stated that the business has grown, incorporated. He further stated that the business has offered CEUs to employees, that they require it, and solicit outside of their business for people who have come in and present CEUs. Commissioner Peterson stated that is good and is appreciated. He then asked if, as a QP, he was

aware of what was going on in the company, and if people were operating on their own. Mr. Vanasse stated that people rationalized their behavior after the fact by conspiracies, and that he would have never expected Mr. Ellis to do something like this, given his background in law enforcement, and the fact that the three of them (Vanasse, Fortune, Ellis) were working together closely, communicating often. He stated that now, everyone is suspect. Commissioner Peterson stated that in his view, what was done here by Ellis was criminal, and that this should be turned over to the Attorney General's Office. He stated that the company came in and fixed the problem two months after the fact, but Mr. Ellis did not. Mr. Vanasse stated that Mr. Ellis was applying for his QP while this was going on and he is no longer with the business.

Mr. Ellis introduced himself and stated that he was the owner, operator and QP of PK's Pest and Termite Control. He stated that Mr. Vanasse opened up Paul's Pest in January 2001 in Phoenix. Mr. Fortune and Mr. Ellis started a branch office in Prescott, and ran the office out of Mr. Fortune's house in Prescott Valley. Mr. Ellis' wife lent the funds to buy a truck, some equipment, chemicals and paperwork. Mr. Fortune was the branch manager. Mr. Fortune and Mr. Ellis were partners, with monies being split 50/50. He found termites on a couple of houses, but several houses that were quick closes he declined to do the jobs. The house that is the subject of this complaint is one where he found termites that he didn't have chemical to do a termite treatment. Mr. Ellis did intend to do the treatment later. He did agree to a settlement over the phone, but the \$945 is what he charged for both the subterranean and dry-wood jobs. He did do the dry wood spot treatment. Mr. Ellis thinks that he charged \$600 for the dry wood to the buyer or seller. When he was kicked out of the office by Mr. Fortune, he was told by Mr. Fortune to bring in originals and they would TARF everything. Mr. Ellis faxed them, and Mr. Fortune was supposed to TARF them, but he got sick of that so he told Mr. Ellis to not worry about the report and just send Mr. Fortune an invoice so he could get Mr. Ellis a WIR number. So Mr. Ellis kept all of his paperwork. The reason that Mr. Vanasse and Mr. Fortune were not responsible for falsification of termite records since they weren't aware is because Mr. Fortune didn't want to know, didn't want Mr. Ellis to bring anything in or even see Mr. Ellis' face. Then Mr. Ellis said that he faxed an invoice, but kept paperwork for TARFs. Mr. Ellis has since given all records to the SPCC, and this coincides with the refunding of the monies that Mr. Ellis talked about with Vince Craig. If this stands Mr. Ellis needs a copy of the records so he can contact the title company to find out who paid so he can reimburse them.

Commissioner Fraker asked Mr. Ellis what name he was using when he left Paul's, when they told him he was out of there and gave him chemicals. Mr. Ellis rambled, but never provided a straight answer. Commissioner Fraker then asked where the money went that Mr. Ellis received from a title company when he did a treatment, whether it went to him directly or to Paul's. Mr. Ellis stated that initially, when he

was first kicked out of the office it would go to Paul's and Mr. Fortune and then at a later date Mr. Fortune said that Mr. Ellis needed to start his own account. So, Mr. Ellis started a fictitious business name with a bank, so that for checks that were being issued to Paul's, there could be a cut issued to Mr. Ellis. Then, Mr. Fortune would cut a check to Mr. Ellis via the fictitious business name PK'z. Mr. Ellis kept records of everything he would get paid for. But Mr. Fortune said, "Have the checks go directly through you." Commissioner Fraker asked what the time lapse was between when Mr. Ellis entered an invoice for work that he didn't do and when he got his money. Mr. Ellis stated that the house giving rise to this case was supposed to be a long close, no occupancy, but it was bumped up, and that's why he didn't get a chance to do the treatment. He thinks it was less than 30 days. Commissioner Fraker asked Mr. Ellis why he didn't go back and treat the house, if he was paid in less than 30 days. Mr. Ellis stated that the house was occupied, he didn't have the money, he and his wife were scraping to get by. He stated that it would be embarrassing to do this while the house was occupied. Mr. Ellis stated that he had subsequently treated other homes that he had invoiced before but hadn't treated initially. Commissioner Runbeck asked how long Paul's has had a business license. Mr. Vanasse stated that Paul's has been licensed since February 2001. Commissioner Runbeck asked how the business was set up, who the owner was when they applied. Mr. Vanasse stated that it was a sole-proprietorship. Commissioner Runbeck stated that the business falsified records, set up a fictitious business name, operated without a business license or QP supervising anyone. Vince Craig stated that staff examined the issue of whether or not Mr. Ellis was working unlicensed. Vince Craig stated that treatment records, WIRs, proposals and receipts all said Paul's, and that Mr. Fortune admitted that the QP did not fire Mr. Ellis. Staff considered that Mr. Ellis was an employee of Paul's. Commissioner Runbeck stated that it sounds like the business was actually assisting in this whole fraudulent setup. Vince Craig stated that staff viewed it as an issue between Mr. Ellis and Mr. Fortune with a lack of knowledge by the QP. Mr. Ellis stated that he didn't understand the charge of treatment records being void. He stated that he wasn't trying to falsify the records. Vince Craig stated that in violation of A.A.C. R4-29-305, specific language is not reflected on the treatment records. Also, the TARF treatments are in the SPCC database, and are paid for, although staff doesn't know by whom. Commissioner Fraker asked Mr. Fortune if Mr. Ellis' comments were accurate. Mr. Fortune stated that most of them were. Commissioner Fraker asked if Mr. Ellis was ever terminated prior to October. Mr. Fortune stated that he was not terminated before October, was operating on his own under Paul's Pest Control license, but the QP was not aware of the arrangement between Mr. Fortune and Mr. Ellis. Commissioner Baker asked if all consumers have been taken care of, regardless of where the treatment eventually came from. He also wanted to know if there were any pending consumer complaints. Vince Craig stated that there were no consumer complaints. Commissioner Peterson asked Mr. Fortune if he was just submitting the WIR numbers that he had, and if anything else was going on. Mr.

Fortune stated that he didn't recall, as it was two years ago. He stated that he called the office and got numbers. Mr. Fortune and Mr. Ellis used the same numbers. Mr. Fortune stated that twice he did not use numbers for wood inspections. Commissioner Runbeck stated that she wanted to have a better understanding of how the company was running. Mr. Fortune changed Mr. Ellis' employment status with Paul's because of the way money was handled, but he still told Mr. Vanasse that Mr. Ellis was an employee. Mr. Fortune stated that Mr. Ellis was working under Paul's umbrella, was acting on our behalf, getting monies for what he did. When he was a real employee, we would have put payments in an account and then we would split them. But payments would have come initially to Mr. Fortune, and so after he was "terminated", Mr. Fortune told him that he was responsible for getting payments. Commissioner Runbeck asked Mr. Fortune if he changed Mr. Ellis' employment status with Paul's and told Mr. Vanasse that he was still an employee with Paul's, to which Mr. Fortune replied, "Yes." Commissioner Runbeck stated that Mr. Vanasse never knew that Mr. Fortune changed Mr. Ellis' employment status. Commissioner Robinson asked Mr. Fortune if he was caught between Mr. Vanasse and Mr. Ellis, mitigating information from Mr. Vanasse and giving it to Mr. Ellis, to which Mr. Fortune replied, "No." Commissioner Fraker asked Mr. Fortune how the QP was benefitting from his actions given that Mr. Fortune and Mr. Ellis were splitting money, and if Mr. Fortune was operating independently. Mr. Fortune stated that "Yes", he and Mr. Ellis were operating independently, but under Paul's. The QP was with him, but never asked him where his money was. Mr. Fortune stated that they were trying to grow a business. Commissioner Fraker asked if they were trying to grow a business, operating independently from Mr. Vanasse. Mr. Vanasse stated that he and Mr. Fortune are friends, go way back. Mr. Vanasse was a sole proprietor but it was a joint business with Mr. Fortune. Mr. Fortune is an officer of the business. Commissioner Runbeck asked if Mr. Vanasse was expecting to get any money out of the Prescott business. Mr. Vanasse stated that it's a shoestring business to help their families. Mr. Vanasse would call on them once in a while to have them assist Mr. Vanasse with insurances and operating expenses. They would operate their own business and send money once in a while to help Mr. Vanasse pay insurance. Commissioner Runbeck stated that technically they were operating their own business and sending money to help with insurance once in a while. Mr. Vanasse stated "Yes, as any other company might grow their business." Commissioner Runbeck asked who was watching over to make sure that TARFs were filed, that the proper amounts were being collected from clients, and employees were getting paid appropriately. Mr. Vanasse stated that he set up profit structures. They kept their books, and paid for TARFs, even though Mr. Vanasse was responsible for the TARFs. Mr. Ellis was entitled to money he earned while he was with the business. At the time they didn't feel there was any bad blood. Commissioner Runbeck asked Mr. Vanasse if he would review reports periodically to make sure that things were being done properly. Mr. Vanasse stated "Yes, and they would call if they had any questions on their reports." Scott

Richardson stated that he wanted to clear up profit structure, and stated that there is no requirement in the statute that people be payed in certain ways by QPs or that he even take profit from the Prescott office. Mr. Vanasse can grow the business his own way, as long as he trains, equips and supervises. Commissioner Runbeck stated that she was concerned that this was just a farce, asking if they were operating without a QP or a business licensee. Scott Richardson stated that Mr. Vanasse was operating as a QP, making visits, etc. Commissioner Hartley stated that it sounds like Mr. Vanasse was a virtual QP, not a real QP, without an idea of what was going on, and that service technicians were buying their own chemical. He stated that this sounds like a franchise within a business, and this is not in the spirit of what a QP is. Scott Richardson stated that this is a complicated situation. He stated that what is clear is that Mr. Vanasse was discharging the duties of QP through Mr. Fortune by going to the office, by checking records, etc. The business arrangement was somewhat bizarre, but just because Mr. Vanasse wasn't making a profit through the branch office doesn't mean he wasn't discharging QP duties. Nowhere in the statute, in the rules, in the history of the Commission does it say how it is you go about training, equipping and supervising and what those standards are supposed to be. Commissioner Peterson stated that Mr. Vanasse wasn't doing QP duties through Mr. Ellis. Scott Richardson stated that he was doing them through Mr. Fortune. Commissioner Peterson stated that Mr. Fortune had nothing to do with Mr. Ellis, and that they both said this. Mr. Vanasse stated that he had communication with Mr. Ellis. Commissioner Peterson stated to Mr. Vanasse that he didn't even know Mr. Ellis was still with the business, to which Mr. Vanasse replied, "I can't dispute what he is saying." Commissioner Runbeck stated that these guys are buddies. There were technically two separate businesses going on and Mr. Fortune doesn't have a QP, so he gets to operate under Mr. Vanasse's QP. Technically there is no violation, but the business is being run fast and loose she wouldn't want to do business with people like that. Scott Richardson reiterated that this is exactly why we formulated a settlement proposal that wouldn't be the mere writing of a check, so that this situation cannot, should not, will not ever occur again. Commissioner Runbeck asked if there were any receipts pertaining to the \$945 versus \$345. Vince Craig stated that staff is firm with the \$945 penalty. Mr. Ellis didn't have chemical, didn't have money to do the \$600 or \$345 job. If this were to go to hearing, there would be more than \$1,000 assessed per violation, so Mr. Ellis is still being expressed leniency. Commissioner Baker advocated coming up with a set of responsibilities according to the Matrix, and making sure they know they have violated the law and fine them accordingly. He stated that the fines aren't enough under these circumstances that they have been defrauding the public.

MOTION: *To go back to staff, return it back to modify the proposal, look at the Matrix, and throw every fine they can throw at them by Commissioner Baker.
Seconded by Commissioner Hartley.*

VOTE: 0-6 Motion failed. (Commissioners Hartley, Robinson, Fraker, Peterson, Runbeck and Baker opposed)

Commissioner Runbeck stated that she doesn't want to deal with this again next month. They know that the Commission is displeased. But she stated that she does like the adding of CE requirements. Commissioner Robinson stated that he doesn't want to see this again either, but he doesn't want to send it back to staff. He recommended sending it to hearing, and if the penalties are more, then so be it. He stated that we should not have this type of operation out in the public sector. Commissioner Peterson stated that if this goes to hearing we will come down to the check, and the situation won't be made better. Commissioner Fraker asked if it can be sent to hearing with those recommendations of additional training, reporting. Lisa Gervase stated that unless there are one or the other conditions precedent or a prior violation, we can't do more than an administrative warning against the business licensee. Here, there is not a condition precedent to do more than an administrative warning against the business licensee unless they agree to it in settlement conference, which they did (a \$100 civil penalty), and a judge can't order reimbursement to the consumer.

MOTION: To accept the 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, by Commissioner Runbeck.
Seconded by Commissioner Hartley.

VOTE: 5-0 Motion carried. (Commissioner Baker abstained)

E. Payne Free Enterprises dba The Pigeon Guy (BL)/Robin Hardwick (President)/Frederick G. Payne (App) - Case # 2004-040

Mr. Payne stated that they are currently licensed since March and that they do not use pesticides, and probably never will. He doesn't deny his SPCC license lapse since January 2004. Studying for the test was difficult, and in hindsight, if they knew they could have rented a temporary QP they would have done that. During that time they weren't putting the public in harms way because there was no pesticide use. They were licensed, bonded and insured by another state agency to do pigeon control. Since that time they have qualified for the necessary licensure required by SPCC. They have invested substantial money and time in a short period of time. This is an example of their continued efforts to perform. It is not necessary to impose any additional burdens of time or money on the company. We are consummate professionals and not a threat to the community. Non-lethal pigeon control is very specialized and is going through lots of change in Arizona. It is

difficult in Arizona. The current focus of pigeon control here is evidenced by only one question on the exam that we noticed, asking to identify a picture of a pigeon. The Pigeon Guy is the only pigeon control company to offer consumers free treatment of future nests. Pest control and pigeon control specialists are not telling consumers about the entire pigeon nesting problem because they do not know how to treat all nesting areas. Pigeons will nest anywhere that their eggs will not fall off the roof. There is no regulatory agency to test and support the incredible array of ineffective pigeon control products on the market. Customers rely on the knowledge and expertise of contractors to protect them, and this is usually ineffective or inappropriate for their circumstance. The safety issues are very real to consumers. Commissioner Peterson asked what the relationship is to what we have to deal with here, noting that Mr. Payne still had another page to read. Mr. Payne stated that he was going to summarize the work they have to do, things they had to be trained for through the Registrar of Contractors, and he wanted to demonstrate that there are all of these areas that are now extremely specialized that we have adapted to and applied on the properties that we do work for. Commissioner Peterson stated that we don't disagree that you do your job professionally, but that the Commission needs to decide if Mr. Payne needed a license by the SPCC, and whether he was operating without a license. Commissioner Baker stated that the bottom line is that Mr. Payne didn't want to meet for a settlement conference. Mr. Payne stated that he was not too sure about what a settlement conference involves. He stated that staff was professional, and he was offered a \$500 fine for this being the second time he was operating unlicensed. He stated that the first time they didn't know they had to be licensed by the SPCC, so when they were told it was a complete surprise. Commissioner Peterson asked Mr. Payne who he was told by the first time that he needed to be licensed. Mr. Payne stated that they received an anonymous phone call from someone (a concerned consumer) who asked if they were licensed, so after that the company made the first contact with SPCC to find out if they had the necessary license. Commissioner Peterson stated that Mr. Payne found out previously that he needed to be licensed by the Commission, but continued operation. Mr. Payne stated that it was their understanding that you needed to be a QP to get a new business license that was offered by the SPCC. They got study materials, and took a test, but didn't feel they were imposing a threat to the community. They qualified twice for two different licenses, which is expensive. Commissioner Fraker stated that according to the information in front of him, Mr. Payne stated to Inspector Tony Harback that he was operating as a branch office under a licensed company, Black Jack Pest Control. Commissioner Fraker asked Mr. Payne if he was aware that a license was required, to which Mr. Payne replied, "Yes." Commissioner Fraker stated that when staff called Black Jack at the end of 2003 they said they didn't support that relationship, but on March 24 Mr. Payne stated that he was still a member of Black Jack. Mr. Payne stated that he had said he was operating previously under Black Jack, because he needed the benefit of a license. Commissioner Fraker stated that Mr. Payne should have stopped doing

business when he realized that he didn't have a license and when the relationship stopped. And Mr. Payne failed to come to an understanding in the settlement conference. Mr. Payne stated again that he doesn't understand the point of a settlement conference, because it's not a negotiation. Commissioner Peterson explained the purpose of a settlement conference, stating that it can be done over the phone, you don't have to show up, and that mitigating circumstances can be explained. Commissioner Runbeck stated that staff was proposing \$500 and that Mr. Payne was getting a deal because the Commission can impose \$1,000. Mr. Payne stated that their challenge is that it's frustrating for a non-lethal pigeon control company to go through all of the expenses and time and then realize that there is no training offered by the SPCC. He stated that when they were in the process of taking a class to qualify they felt that they had done everything possible. If they had known that they could have gotten a temporary QP they would have. Mr. Payne asked if he really need to be licensed by an agency that really doesn't train him at all to do what he does. He stated that he thinks there are mitigating circumstances. They are currently licensed, and spent \$600 for training. Commissioner Hartley asked what the Registrar of Contractors had to do with this. Vince Craig stated that when this was discussed in April it was mentioned that only one bird control license existed in Arizona, and that was to the Pigeon Guy, issued by the Registrar of Contractors. Vince Craig called the Registrar of Contractors to ask why and the Registrar of Contractors didn't know that there was an agency that regulates bird control. It was made clear back then and at the Commission meeting that the SPCC does regulate this. The Registrar of Contractors registered him because they didn't realize that the SPCC regulated pigeon control. Mr. Payne stated that they too called the Registrar of Contractors to find out which license was necessary, and the Registrar of Contractors told the City of Scottsdale that it was necessary to have a Registrar of Contractors license. Commissioner Runbeck stated that if we are regulating this, then we should offer classes that are pertinent to it. If it is a specialized type of license, maybe there should be a separate classification for this so that they don't have to learn how to do a bunch of stuff that is not pertinent to what they are doing. Commissioner Baker stated that it is tough logistically, without resources, to develop training and exams for one person. In reality it won't happen. Commissioner Runbeck stated that this means that maybe the SPCC shouldn't be regulating him. Commissioner Hartley stated that maybe one of the only reasons we should be involved is because there is a temptation with pigeon control to use a very dangerous and restricted-use chemical, Abitrol, and this definitely falls under the purview of this organization. That chemical can be highly detrimental to non-target species. We shouldn't relinquish our authority if someone wants to buy Abitrol, even though he is now using mechanical means only. Mr. Payne stated that maybe there could be a special category for non-lethal rodent control, for rats, pigeons. These rodents are dangerous to consumers right now.

MOTION: To impose a civil penalty of \$1,000 by Commissioner Fraker.

Seconded by Commissioner Baker.

VOTE: 3-3 *Motion fails. (Roll call vote: Commissioner Hartley-No, Commissioner Robinson-Yes, Commissioner Fraker-Yes, Commissioner Runbeck-No, Commissioner Baker-Yes, Commissioner Peterson-No)*

Commissioner Peterson stated that he thought \$1,000 is too much.

MOTION: *To impose a civil penalty of \$500 against Payne Free Enterprises, dba The Pigeon Guy and Robin Hardwick (President) jointly and severally by Commissioner Baker.
Seconded by Commissioner Hartley.*

VOTE: 6-0 *Motion carried.*

VIII. Unlicensed Activity Complaints

A. Case, Huff & Associates, Inc./Mr. Tim Huff (President) - Case # 2004-021

MOTION: *To accept the proposed agreement to issue a Cease and Desist Order and a \$500.00 civil penalty against Case, Huff & Associates, Inc./Tim Huff, jointly and severally, to be paid within 30 days of Commission Order, by Commissioner Robinson.
Seconded by Commissioner Hartley.*

VOTE: 5-0 *Motion carried. (Commissioner Fraker not present)*

B. Eastwood Enterprises Landscape Services (Unlicensed Business)/Alice Forler (President)/Mariano Ochoa (Unlicensed) - Case # 2004-039

MOTION: *To issue a Cease and Desist Order and a \$600.00 civil penalty against Eastwood Enterprises Landscape Services, Alice Forler and Mariano Ochoa, jointly and severally, to be paid within 30 days of Commission Order, by Commissioner Baker.
Seconded by Commissioner Robinson.*

VOTE: 5-0 *Motion carried. (Commissioner Fraker not present)*

C. Epic Landscape Construction/Michael Bayne (Vice-President) - Case # 2004-025

MOTION: *To accept the proposed agreement to issue a Cease and Desist Order and to impose a \$1,000 civil penalty against Epic Landscape Construction and issue an Administrative Warning and a civil penalty of \$400 against Applicator Michael Bayne. Civil penalties to be paid within 30 days of Commission Order by Commissioner Runbeck. Seconded by Commissioner Hartley.*

VOTE: 5-0 *Motion carried. (Commissioner Robinson not present)*

D. Nunez Creative Landscape, Inc. (Unlicensed Business)/Jesse Nunez (President) - Case # 2004-032

Jesus ("Jesse") Nunez, Sr. appeared.

Jesus Nunez, Sr. (Jesse Nunez), representing Nunez Creative Landscaping introduced himself, and stated that he wasn't aware of the settlement conference. He stated that he received on Saturday, August 28 a letter that was sent out August 23. He stated that he called the SPCC the following Monday, August 30. According to the letter, the settlement conference was to be held on the previous Wednesday, August 25. He stated that they were operating without a license, spraying chemicals for weeds. He didn't think a license was needed if we sprayed with a backpack sprayer and under five gallons. He said that he always uses a subcontractor whenever he sprays more than that. He stated that the rules changed about three and a half years ago and he wasn't aware of that. He stated that he is currently studying to take the QP test and is in the process of hiring someone. He stated that it is hard in this business to hire someone who is qualified. Commissioner Runbeck asked when the letter went out informing Mr. Nunez of the settlement conference. Mr. Nunez stated that the letter was sent out on the 23rd and the settlement conference was scheduled for the 25th. He received the letter after the settlement conference was scheduled. He stated that he gave all the requested information to the inspector and then never heard anything else after that until he received the letter. Lisa Gervase stated that she doesn't remember if staff tried to call Mr. Nunez or not. Commissioner Runbeck stated that this was not sufficient notice for the settlement conference. Mr. Nunez stated that he just wants reconsideration of what he knew then and knows now about the law change. Lisa Gervase stated that there was no law change, and that the under five-gallon practice was never allowed. The standard offer for unlicensed activity is a \$500 civil penalty and a cease and desist order, unless there are any mitigating circumstances that would bring it below \$500. We can either send it back to discuss it or work out something right here in front of the Commission. She then asked Mr. Nunez if he held an applicator license. Mr. Nunez stated that he was studying for it. Commissioner Runbeck stated that under the circumstances, with a lack of a meeting, if we act on it now, it is likely that Mr. Nunez will be imposed a \$500 civil penalty and a cease and desist order.

Commissioner Runbeck asked Mr. Nunez if he wanted to be done with this now or meet with staff. Mr. Nunez stated that he just wants to be done with this now. Vince Craig stated that on company letterhead, Mr. Nunez states his name as "Jesus", but on the witness statement it is listed as "Jesse". Mr. Nunez stated that his legal name is Jesus Nunez, Sr.

MOTION: To issue a Cease and Desist Order and to impose a \$500.00 civil penalty jointly and severally against Jesus "Jesse" Nunez, Sr. and Nunez Creative Landscapes, to be paid within 30 days of Commission Order, by Commissioner Runbeck.
Seconded by Commissioner Robinson.

VOTE: 6-0 Motion carried.

E. Pretty Flower Landscaping (Unlicensed Business)/Jose Garcia (Owner) - Case # 2004-033

Commissioner Peterson stated that again the respondents did not respond to a request for a settlement conference here, and people don't like the record to show that they didn't respond. Lisa Gervase stated that staff did not receive a phone call from them either. Dave Colvin stated that he didn't receive any communication either, and that there also is no requirement to hold a settlement conference for unlicensed people. He stated that the main purpose of a settlement conference is to keep the unlicensed party in an informed loop. Dave Colvin stated that if someone calls him and says they want a settlement conference he will hold one, but otherwise he will move things forward.

MOTION: To issue a Cease and Desist Order and to impose a \$500.00 civil penalty jointly and severally against Jose Garcia and Pretty Flower Landscaping, to be paid within 30 days of Commission Order, by Commissioner Robinson.
Seconded by Commissioner Fraker.

VOTE: 6-0 Motion carried.

F. John F. Long Properties LLLP (Unlicensed Business)/Glen Edward Gross (Unlicensed App)/Sean O'Brien (Unlicensed App) - Case #2003-125

Jacob Long, representing John F. Long Properties LLLP, appeared to state that he agrees with the terms.

MOTION: To issue a Cease and Desist Order each on John F. Long Properties

*LLLP, Glen Edward Gross and Sean O'Brien by Commissioner Fraker.
Seconded by Commissioner Baker.*

VOTE: 6-0 *Motion carried.*

IX. For information and discussion, not action

A. Complaint Status Log

Vince Craig stated that he has a list of cases that will hopefully proceed as planned. Lisa Gervase stated that there may be about 26 cases next month. Commissioner Peterson stated that it is good and that staff looks like they have been busy.

X. For review, consideration and action: Request for Rehearing or Review

A. Prose Landscapes, LLC/Daniel A. Prochaska

Mr. Munns appeared for the State. No appearances for Mr. Prochaska or Prose Landscapes.

Commissioner Peterson asked if anyone was so inclined to decide to review what we had said before. Commissioner Runbeck commented that she thought it was a really creative argument that someone is so busy applying pesticides that they don't have time to get an applicator license. Lisa Gervase stated that for the record he got notice of today's meeting by an August 6 letter.

MOTION: *To deny Rehearing or Review because no new information has come to light and none of the seven legally allowed grounds for review or rehearing are present by Commissioner Hartley.
Seconded by Commissioner Baker.*

VOTE: 6-0 *Motion carried.*

XI. Felony Applicants

A. Boggness, David Earl

Mr. Boggness appeared.

Commissioner Peterson asked Mr. Boggness if he has gone through anger management classes. Mr. Boggness stated that this happened eleven years ago, he has paid his debt to society, went to prison, paid fines, paid restitution. Since then all of his rights have been returned to him. He stated that it was his impression

that this should have been over with and forgotten considering that this incident occurred prior to getting his pest certification. He was out of prison and returned to work with the county prior to getting certification. Since then he has had certification for eleven years, and the Commission was never lied to. He stated that he always told the truth on the application that he was a felon, but it was never questioned before. Commissioner Runbeck asked why this was not brought up before. Lisa Gervase stated that there was no documentation that the Commission had ever reviewed it. It was brought forward today because it was not discussed earlier. Commissioner Fraker asked if his renewal application always said yes with regard to the felony question, to which Lisa Gervase replied, "Yes." Mr. Boggness then stated that he doesn't even use his license. He is a truck driver, but the county just requires him to maintain his certification. Lisa Gervase stated that it is still valuable, because it is a license to earn a living.

MOTION: *To approve license renewal by Commissioner Robinson. Seconded by Commissioner Hartley.*

VOTE: *5-1 Motion carried. (Commissioner Fraker opposed)*

Commissioner Peterson asked how we keep track of people when they let their certification lapse and then people decide they want to come back in five years. Lisa Gervase stated the decisions are entered into the licensing database so that it is always in an electronic form. A copy of meeting minutes also are placed in the license file, and the minutes are kept forever in hard copy or electronic format to research. She stated that staff has gone back searching people's names to see if the Commission reviewed things in the past, and if they can't find it she has no choice but to put it on the agenda. Mr. D'Avola withdrew his application.

C. Yguado, Juan Valente

Mr. Yguado, Mr. Macias, branch manager for the Groundskeeper, and Mr. Martinez, QP for the Groundskeeper appeared.

Commissioner Peterson asked Mr. Yguado if he was still on probation. Mr. Yguado stated that he was actually on parole, because he spent time in prison and still has to report to an officer. Ed Macias, branch manager for the Groundskeeper for Phoenix, introduced himself. Alex Martinez, supervisor and QP, introduced himself and stated that Mr. Yguado started working for them four years ago, has a good work ethic, and is never late. Mr. Yguado wants to move up in the world, judging by what he's done. Mr. Martinez stated that they conduct UA tests before they hire, and he's been taking UA tests with his probation. He's doing everything he's supposed to be doing, goes to church, and talks to kids about the effects of crime. Commissioner Peterson asked Mr. Yguado how long he has been clean. Mr.

Yguado stated that in 1997 he went to jail for 5 years, and has been clean ever since. There is a no tolerance program at work. He stated that he has done anger management, and a drug course. He stated that if the Commission were to contact his Parole Officer he would tell them that he has complied. Commissioner Peterson asked Mr. Yguado if he was still hanging out with the same people. Mr. Yguado stated that he was not, and that he was now hanging out with people from work. He also stated that he is getting married in November. He is 27 years old, and this crime happened when he was 20 years old. Commissioner Runbeck stated that the description of what happened scares her. Commissioner Baker also expressed concern about the nature of the crime, an armed home invasion, given that the pest control industry necessitates workers going into people's homes at times. Mr. Macias, a groundskeeper for 12 years, and branch manager for 4 years, stated that they have had thousands of employees. Mr. Yguado was referred by an individual in their company, Mr. Yguado was open about his crime and asked for a chance. Mr. Yguado oversees a top-ten property in Phoenix, interacts daily with facility managers, with mall management. Over the last year he has been a phenomenal employee, and his communication is stellar. Commissioner Peterson asked how long Mr. Yguado has been out of prison. Mr. Yguado stated that it has been twelve months, and that he was hired straight out of prison. Mr. Macias sent him to Central Arizona College to be a certified landscape professional. Mr. Yguado stated that he is also taking certification classes. Mr. Macias stated that if most people went through what Mr. Yguado has gone through, in terms of having to collect his record and going back on probation, they would have stopped. What he did just to get to this point stands for something. He has had to go through more than the normal process, and he hasn't had an opportunity like this in the past 7-10 years. Commissioner Hartley asked if Jack Hasbrouck was familiar with this employee, Mr. Yguado. Mr. Macias stated that Mr. Hasbrouck has trusted him to make decisions for the company. Mr. Hasbrouck runs a good company, hires good people. Commissioner Robinson asked about Mr. Yguado's prior parole violations, and asked him to go into detail. Mr. Yguado stated that it was for possession, because he was still with his old bad friends, and he has since moved away from that. Commissioner Fraker asked how much time was left on his parole. Mr. Yguado stated that he would be done this October. He stated that his Parole Officer would tell them there is not a smudge on his parole. Commissioner Peterson and Lisa Gervase both stated that they didn't think his parole ended until January 2005. Mr. Yguado stated that was true in the earlier stages, but that his Parole Officer told him they have since moved it up. Commissioner Runbeck congratulated Mr. Yguado for pulling himself out of this, and stated that it does restore her faith in a system that occasionally does manage to rehabilitate people. She also stated that he is very lucky to have people who are willing to give him a chance because not a lot of people who would have done that.

MOTION: To approve applicant testing by Commissioner Hartley.

Seconded by Commissioner Runbeck.

VOTE: 6-0 *Motion carried.*

XII. For information and discussion, not action:

A. Computer Based Testing “CBT” Status and Statistics

Commissioner Peterson commended staff on a good job on review of testing facilities. Carl Martin stated that he just did what the executive director told him to do.

XIII. Approval of Minutes

August 13, 2004 (regular session) Minutes

MOTION: *To approve the August 13, 2004 Minutes by Commissioner Baker. Seconded by Commissioner Runbeck.*

VOTE: 6-0 *Motion carried.*

XIV. Scheduling of future meetings/agenda items

Current Proposed dates and locations

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
March 11, 2005	Scottsdale, AZ

Lisa Gervase noted that the October meeting is in Tucson, and advocated spreading the word. Also, she asked if any of the Commissioners wouldn't be present for any of these six dates. Commissioner Peterson said that March 11 was questionable, because AAPCO usually falls somewhere in there. Commissioner Baker asked which Commissioners terms would be expiring. Lisa Gervase stated that Commissioners Hartley, Fraker and Peterson have expired terms coming up in January, and that Commissioner Hartley cannot be reappointed, as this is his second term. She also stated that the Governor is not making a habit of automatically reappointing people. Commissioner Runbeck, who also serves on another board, was not reappointed. Lisa Gervase stated that Commissioners

Peterson and Fraker should politic for reappointment. Commissioner Baker asked how to politic, and Lisa Gervase replied that you have to get to the Governor. The Governor has a strong candidate to replace Commissioner Hartley, and Lisa Gervase doesn't know if there are any other applications. Commissioner Peterson stated that we would have to apply again, and asked if they have put anything out that said something. Lisa Gervase stated that they will not, it's up to us, it's a slow process. She stated that she was calling the Governor's office weekly to find out what is going on. Dora Vazquez is the main contact, Lynette Evans is the regulatory affairs contact. Lisa Gervase advocated having other people make contacts. Commissioner Baker asked what to do if we are interested in seeing someone's name put forward. Lisa Gervase stated that they would need to contact her and she would tell them what to do.

XV. For information and discussion, not action:

A. Expenditure Report

Lisa Gervase stated that this will probably always be a handout, because she doesn't get budget numbers soon enough to put it in the Commission Books. The SPCC has prepaid rent for the whole year, so they have expended a higher percentage of their budgeted funds in the first two months of the fiscal year.

B. Case Status Report

Lisa Gervase stated there are roughly 62 active cases instead of the 78 listed on the memo to Commissioners because this number changes daily.

XVI. For discussion: Licensing exam questions

Commissioner Baker stated that he has had conversation with Carl Martin about this, and stated that we need to recognize that this is in constant change. There are statistics about what questions are consistently being answered incorrectly even though people continue to pass the exam, and he gets a little nervous about this. He stated that the exams are going fairly well. He would like to see higher pass rates, but if people know what they have to do, which is to study the study material, we can lead a horse to water but can't make them drink. Carl Martin stated that statistics for each question are kept, and that language is a symbol. It can be difficult to pick the right words for the exam questions. There will always be a need to re-examine how we are saying things and asking questions. The core competencies being driven at here are fairly stable and defensible outside of the sort of statistical validation that we have talked about doing and are committed to doing. We are continually re-evaluating so exams will improve. In a perfect world, where

the exam mirrors perfectly the practice and the study, persons coming into the exam with some period of practice, up to 90 days of practice, would pass half the time and would fail half the time on the first time taking exam. We are approaching a 40% pass rate right now. Mr. Martin noted that for those who fail, their percentage on the test is around 60%, substantially lower than what is necessary to pass the exam. The average exam score is over 70%, between 70%-75%. If the old standard applied, we would be at the place where about half passed and half didn't pass. The new standard (law change) imposed by legislation made it a higher bar.

XVII. For discussion: Background checks for all applicants

Commissioner Fraker stated that he wanted to have this on the agenda so the Commissioners could get some feedback. He asked that staff do research to find out what the associated costs would be to do background checks for QPs and applicators, saying that there is an interest in the industry with that. He asked staff to research this, give feedback and put this on a future agenda. He stated that we are at the mercy now of people being honest on their application, and that we can tighten the loop and people will be better served. Commissioner Robinson asked what the time frame is when you process an application, between when the application is being put in to presumptively the federal government to when staff gets it back. Mike Francis stated that the average is 30-45 days maximum for results, and that there is a new system in place where they turn them around faster. This includes state and federal. He stated that staff submits them through the Department of Public Safety, and the results are from the State of Arizona and FBI checks, using fingerprints. Carl Martin stated that there are approximately 1,200 new licensees per year. Some are just summer workers and then some work year round. Commissioner Baker stated that if we are front loading 1,200 per year, and we have approximately 5,500 certified applicators listed each year, we must be downsizing approximately 1,200 applicators per year also. Carl Martin stated that we have a standard bell-shaped curve in license acquisition. In five years, we have a diminishment of 60%-70% of initial licenses, in ten years-80%, in twenty years-90%. Some will have licenses their whole life, but normally we will see a diminishment over time. We are not talking about testing everyone at this point in time, but certainly new applicants should be tested, so that over a period of five years, there will be 60%-70% of all practitioners being background checked, and in ten years it could be 80%-90%. Mike Francis stated that as new ones come in, others drop out. Commissioner Robinson asked if, when we recertify each year, we are going to require checks or just take their word on their application, and if there was any way to check with the government that a certain number of names are clean. Commissioner Peterson stated that we would need to find out how much it costs, and then if we think its beneficial, we could start out with an initial amount of background testing and then down the line we could ramp it up. Lisa Gervase stated that she can almost guarantee we would not be able to do background

checks annually on a renewal basis, because it would be way too cumbersome. The safeguard is that once someone is licensed, typically they are only going to renew their license if they are still working for a company, and if they have had an arrest and had to deal with it, it is likely their employer knows about it and will likely let staff know about. It's a big enough hurdle to do it on the front end for each new applicant. Carl Martin stated that there are other possible schemes, such as elongating the renewal process. Commissioner Fraker asked if the Commission could make it a responsibility of the QP to notify the agency if they are aware of a felony of one of their applicators. He stated that having people do checks on a voluntary basis might not work, because some people don't want to rat people out. The public would be well served if we pursue it and look at options.

XVIII. Adjournment - 1:40 P.M.

MOTION: *To adjourn by Commissioner Fraker.
Seconded by Commissioner Robinson.*

VOTE: *6-0 Motion carried.*