

**Structural Pest Control Commission  
Pima County Administration Building  
Board of Supervisor's Hearing Room  
130 West Congress, First Floor  
Tucson, AZ 85701**

**COMMISSION MEETING  
FRIDAY, October 8, 2004 - 9:00 A.M.  
MINUTES**

**I. Call to order, Commissioner roll call**

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

**Commissioners Absent:** Commissioners Tom Allen and Jack Peterson

**Staff Present:** Mike Francis, Lisa Gervase, Robert Tolton, Legal Intern Eric Bauer

**II. Call to the public**

*Bruce Tennenbaum from Arizona Pest Control Company thanked the Commissioners and SPCC staff for sending out notices for the Tucson meeting, so that we could have a good turnout today. He also stated that his company sent out notices and made phone calls, encouraging his members to attend for educational purposes.*

**III. Communication with Commissioners**

*Lisa Gervase asked that the Commissioners and staff introduce themselves for the benefit of the audience.*

*Commissioner Hartley stated that he has been with Truly Nolen for 35 years in Tucson, with the Commission for six years, and also on boards in Florida, Texas and New Mexico, and that the Arizona Commission is the best.*

*Commissioner Robinson stated that he is in his fifth year on the Commission, and is a golf course superintendent in Prescott. The National Golf Course Superintendent's Association of America has made pesticide licensing a priority in their group nationally.*

*Commissioner Runbeck stated that she is in her second year on the Commission*

*and is a lawyer by trade. She has really learned a lot and enjoys being on the Commission.*

*Commissioner Baker stated that he is from the University of Arizona, and has been a pesticide coordinator for Arizona and a termite researcher for 7-8 years, and has been a Commissioner for approximately one and a half years.*

*Lisa Gervase introduced herself as the Director of the Commission office. She stated that the Commission is made up of seven people appointed by the Governor and confirmed by the Senate, and consists of three industry members, three public members, and one entomologist. Commissioners Peterson and Allen are out of town today. Lisa Gervase introduced Mike Francis as the Assistant Director of Compliance and Enforcement, who is responsible for licensing, education and training, inspections, investigations, and enforcement actions. Robert Tolton is the licensing "guru" and Eric Bauer is a legal assistant and recent graduate from law school who replaced Manny Jacobo, a legal intern for the summer who has returned to his third year of law school. Lisa Gervase then made other announcements. She stated that 200 people have already enrolled in each of the November 3 and December 8 CE courses. These classes are pretty full, but have a few openings. She stated that there will also be courses in April and May 2005, and that notices will be sent out for these as well. QP and Business License renewals are due December 1 and can be done online. People can get on the website in early November. For those who chose to renew by mail, renewal forms will be mailed November 1. She recommended renewing online, however, so that renewals do not get lost in the mail. She stated that untimely renewals are subject to a late fee and licensees risk having to take QP exams over if renewals are past the expiration date. Licenses expire December 31. December 31 is a state holiday. However, Lisa Gervase stated that she and two staff members will be in the office on Dec 31 for last-minute people. Renewals have to be complete with proper payment.*

*Commissioner Fraker then stated that licensees can check the status of their renewals and CE hours on the website, instead of calling the office.*

*Lisa Gervase stated that people can check how many CE hours they have. CE hours are good for twelve months and only two license renewals-one QP and one applicator. CE hours cannot be used past 12 months or for two QP or two applicator renewals.*

*Commissioner Baker then stated that he had talked with Dr. Michael Pfeiffer regarding exam questions.*

#### **IV. Consent Agenda**

**A. Applications for New Business License**

**Qualifying Party**

1. **Gavelek, Timothy Michael**      **Sunburst Weed Control (TMG)  
(Activating Qualifying Party for new  
business license in "B3" Right of  
Way/Weed Control and "B5" Turf &  
Ornamental Horticulture)**
  
2. **Kunnen, Harold Jay**            **HouseMaster Home & Termite  
Inspections (Activating Qualifying  
Party for new business license in "B2"  
Control of Wood-Destroying Insects  
and "B8" Wood Destroying Insect  
Inspection)**
  
3. **Langdeau, Philip Dale**        **Sunland Village East Golf Club, Inc.  
(Activating Qualifying Party for new  
business license in "B3" Right of  
Way/Weed Control and "B5" Turf &  
Ornamental Horticulture)**
  
4. **Tovar, Lon Henry**            **Protection Termite 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)**

**B. Applications to activate Qualifying Party for Existing Business License**

1. **Blankenship, Zachariah A.**      **Polo Exterminating (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)**
  
2. **Bowen Gary Lee**                **Bowen's Horticulture Services  
(Activating Qualifying Party for  
existing business license in "B1"**

General Pest/Public Health and "B3" Right of Way/Weed Control)

3. Emmord, Jr., Ralph F. High Desert Weed Control (Activating Qualifying Party for existing business license in "B5" Turf & Ornamental Horticulture)
4. Ross, Richard M. Bug Off Pest Control (Activating Qualifying Party for existing business license in "B2" Control of Wood-Destroying Insects and "B8" Wood Destroying Insect Inspection)
5. Valdez, Adrian Leyva Torres Blancas Golf Club (Activating Qualifying Party for existing business license in "B3" Right of Way/Weed Control and "B5" Turf & Ornamental Horticulture)

#### C. Applicants for QP Licensure

1. **Cruzen, Donald Ray** "B1" (General Pest/Public Health)  
*Tabled until discussion of agenda item V.B. (Request for Temporary Qualifying Party Renewal not on the Consent Agenda, Hometown Pest Control). Mr. Cruzen appeared.*

*Commissioner Hartley recused himself due to a potential conflict. Commissioner Fraker stated that Mr. Cruzen has experience in "B1", and this has been verified by Commissioner Hartley.*

**MOTION:** *To approve QP testing in "B1" by Commissioner Baker.  
Seconded by Commissioner Runbeck.*

**VOTE:** *4-0 Motion carried.*

2. **Delaney, James Patrick** "B1" (General Pest/Public Health)
3. **Ehlers, William John** "B3" (Right of Way/Weed Control)
4. **Meraz, Roberto** "B2 and B8" (Control of Wood-

**Destroying Insects and Wood  
Destroying Insect Inspection)**

*Pulled-Mr. Meraz appeared.*

*Commissioner Robinson noted that Mr. Meraz has enough hours of experience in "B2" and "B8", and asked why does he not have enough hours in B1. Robert Tolton stated that the "B1" experience Mr. Meraz had with his former employer was beyond the five-year cutoff and he did not meet the 3,000 hour requirement within the past five years. Mr. Meraz stated that Mr. Reyelts, the person verifying the experience, put down that Mr. Meraz only had 1,000 hours of experience within the past five years. Mr. Meraz stated that he has more than that, however, and that Mr. Reyelts failed to return paperwork filled out correctly, which caused him to wait three months for this Commission meeting. Mr. Meraz also stated that when he called Mr. Reyelts' office, he was told not to call anymore, and that this process has lasted for three months. He stated that he has 3,000 hours and wants to get certified for "B1". Commissioner Fraker stated that at this point in time we have verifiable hours only for the two categories on the agenda today, "B2" and "B8". He recommended that Mr. Meraz should get with the person who can verify his experience in "B1", or find some other person to endorse such experience, if we see no cooperation from his previous employer. Commissioner Fraker stated that Mr. Meraz could get copies of pay stubs reflecting work that he did, work orders, endorsements from clients, etc. to help verify experience. He recommended having a discussion with his employer at the time, so that he could be put on the agenda for the next meeting. Mr. Meraz stated that, other than having his former employer give out information to him, there is no way he can prove experience, other than looking at the time he got his license initially that states how many years he has had experience. Commissioner Baker asked Mr. Meraz if he had any tax returns that go back far enough to show the company he worked for and that would say that he worked along side a certain individual. This could at least verify that he worked there, if not speak to certain areas of expertise. Mike Francis stated that he has experience in "B1", but it is older than five years. He has spent the past five years dedicated to "B2", "B8". Mr. Meraz stated that he has done pest control and termite work continuously, not just solid termite work. He stated that he has concentrated on post- and pre-treats, but has done general pest work non-stop. Commissioner Fraker asked if we could send a letter to his employer to request the verification information. Mike Francis stated that he spoke with the QP and he did verify the experience prior to five years, but stated that he has not had near the 3,000 hours in the past five years. Primary work was in "B2" and "B8", and secondary work was in "B1". Commissioner Robinson stated that Mr. Meraz has had a "B1", "B2" and "B8" applicator license since 1997, and that*

presumably he has had to keep up with CEUs, etc, regardless of doing work in that area. He asked if, based on this, we could approve Mr. Meraz for "B1". Lisa Gervase stated that someone can hold an applicator license for twenty years but not do work in those categories. The Commission does have some discretion, but the law requires practical experience in the relevant category of the QP application within the preceding five years of the license application. If Mr. Meraz has evidence that differs from his former employer, he can present it to the Commission. Staff contacted his previous employer and he stated that his "B1" experience was older than five years. Commissioner Hartley then asked why on the verification it shows 10,000 hours on "B2" but only 500 hours for "B8", and stated that technically he is not qualified for "B8". Robert Tolton stated that staff explained to him that his license gained in the former C category can be used for "B2" and "B8", and so staff gave him credit for 10,000 hours in both. Robert Tolton stated that it was a miscommunication between Mr. Meraz and staff. Commissioner Fraker stated to Mr. Meraz that it was going to be his responsibility to provide to the Commission verification of his "B1" experience.

**MOTION:** To approve QP testing in "B2" and "B8" by Commissioner Baker. Seconded by Commissioner Robinson.

**VOTE:** 5-0 Motion carried.

- 5. Sikes, Troy Nolan "B1" (General Pest/Public Health)
- 6. West, Sam Lewis "B1" (General Pest/Public Health)

**D. Request for Company Name Change**

- 1. **High Desert Weed Control to High Desert Pest & Weed Control**  
*Pulled*

Commissioner Baker expressed concern about the two names being close to each other, especially if a member of the public wanted to register a complaint and misidentified the company. Mike Francis stated that any time anyone requests a name change, staff does research to see if there are any similar names, if there might be any confusion to the public. If there is another company with a similar name, this information is provided in the Commission Book so that the Commissioners are made aware. Commissioner Fraker stated that there checks and balances, as the Corporation Commission process, where they request the name change, precedes the Structural Pest Control Commission process. This also goes

on the agenda also for people to see, so they can check the website or follow up on the phone if they want.

**MOTION:** To accept the name change by Commissioner Baker. Seconded by Commissioner Robinson.

**VOTE:** 5-0 Motion carried.

#### End of Consent Agenda

**MOTION:** By Commissioner Hartley to accept Consent Agenda with the exception of those items pulled for discussion (C1, C4, D1). Seconded by Commissioner Runbeck.

**VOTE:** 5-0 Motion carried.

#### V. Request for Temporary Qualifying Party Renewal not on the Consent Agenda

##### A. Busch, Donald ABC Pest Control

*Mr. Busch appeared.*

*Robert Tolton stated that Mr. Busch has not been approved for QP testing yet, and that this a first request for renewal. Commissioner Baker asked why Mr. Busch hasn't taken the exam yet. Mr. Busch stated that he is putting paperwork together, and that he has a trade name with the Corporation Commission. Mr. Busch stated that QP Carl Mullins, with whom he worked, died about a month ago. Commissioner Fraker stated that Business License and Corporation Commission paperwork doesn't hinder him from taking the QP exam. He stated that Mr. Busch needs to get the documents in to take the test. Commissioner Fraker encouraged Mr. Busch to complete the process because the Commission has been reluctant to extend temporary QP licenses because they want qualified people.*

**MOTION:** To approve temporary QP renewal by Commissioner Runbeck. Seconded by Commissioner Hartley.

**VOTE:** 5-0 Motion carried.

##### B. Cruzen Donald Ray Hometown Pest Control

*Mr. Cruzen appeared.  
Commissioner Hartley recused himself due to a potential conflict of interest.*

*Commissioner Baker stated that, according to staff paperwork, Mr. Cruzen's experience in "B2" and "B8" may not be sufficient. Mr. Cruzen stated that the previous QP, Brian Hurtt, resigned and was not enthusiastic about filling out Mr. Cruzen's experience verification the way it should have been filled out. Mr. Cruzen stated that he has been working 60-hour weeks. He stated that his company, Hometown Pest Control, only has four employees, including a secretary. Their primary focus is general pest and inspections, and the company does not do pre-treats. Mr. Cruzen stated that they do service work for property management and real estate, and that he has been doing inspections for two years. Brian Hurtt, the previous QP, backed out of that. Mr. Cruzen stated that he has been developing training programs for new people in the company. Commissioner Baker asked Mr. Cruzen if he has documentation for the "B2" and "B8" categories. Mr. Cruzen stated that he already has several TARFs on file with the state. He then stated that his primary focus is termite inspections. He has done spot treats under Mr. Hurtt's license but no subterranean work and no corrective work. He stated that the company reports subterranean work to a listing agent. Commissioner Fraker stated that the question is whether to extend the temporary QP for "B2" and "B8" when the applicant doesn't have verified experience. He stated that the Commission has to act on the information in front of them. Mr. Cruzen stated that his biggest concern is the "B8" category, because it is crucial to his business. Commissioner Fraker stated that the "B8" category is an important part of the industry, and that it is important for people to have experience in order to become licensed in that area. Mr. Cruzen stated that he has taken wood infestation classes through Commissioner Hartley's company. The sales people do most of the inspections there, and Mr. Cruzen was primarily a technician. Mr. Cruzen stated that he did have training, and that he has done all termite inspections in the past two years for Hometown. Commissioner Fraker stated that Mr. Cruzen is not even in a position to test for "B8". Lisa Gervase stated that the Commission has the authority to modify and approve Mr. Cruzen to test in "B2" and "B8" and can extend the temporary QP in "B1", "B2" and "B8" if the Commissioners feel that he has the verified experience. Commissioner Runbeck expressed concern that if the temporary QP for "B2" and "B8" is extended, and he cannot qualify for testing, then he will then have to hire a QP. She recommended extending the temporary QP in "B1", "B2", and "B8" so that he could come up with verifiable experience or hire another QP. Commissioner Fraker stated that Mr. Cruzen's temporary QP is good until November 7, and the next Commission meeting is November 12. There is no way he will be able to test. Mr. Cruzen stated that he did not have an application for testing in "B2" and "B8" because Brian Hurtt was supposed to be the QP until December. Commissioner Fraker stated that this is an important area of our business. He stressed the need to give temporary QPs*

to qualified people. He asked Mr. Cruzen why he hasn't submitted an application for testing for "B2" and "B8", given that he is qualified and he obtained his temporary QP on September 7. Mr. Cruzen stated that he was not familiar with procedures, and had never considered being QP prior to Brian Hurtt's decision. Commissioner Fraker stated that Mr. Cruzen has been acting as a QP since September 7, taking on QP responsibilities (wood reports, supervising people), but hasn't progressed forward in taking steps to secure this qualification. Mr. Cruzen stated that Brian Hurtt gave no notice of his resignation. Mr. Cruzen stated that he did have the Commission staff come to his office to check their books, etc., to make sure they were doing things properly. Robert Tolton stated that, in addition to the "B1" category, Mr. Cruzen actually had attempted to apply for the "B2" and "B8" categories, but couldn't because he didn't have verification of experience in "B2" and "B8". He stated that he would provide these documents to the staff. Robert Tolton also stated that the Commission has approved temporary licenses in the past where an individual doesn't have experience in a certain category, specifically for people who have not intended to become a QP but just needed time to keep the business running and hire someone with the appropriate qualifications. Mr. Cruzen stated that he would be okay with only having a QP in "B8", that he could mark on their forms that termite problems will not be corrected by his company, and that he could refer corrective work to other companies. Commissioner Fraker asked if Mr. Cruzen had any contingency plans for the company if his request for renewal is denied. Mr. Cruzen stated that he has contact information of someone who could qualify. Lisa Gervase reminded the Commission that it can grant renewal for any period of time, not only 60 days. Commissioner Robinson suggested running the temporary QP through the end of the year, as it is likely they will have another QP in place by then, and this will still be less than 60 days. Lisa Gervase also stated that the timing is critical. Even if the temporary QP extends through the end of the year, if Mr. Cruzen could hire an experienced QP, it would have to be on an agenda to activate. It would either go on the November 12 or December 10 meeting agenda.

**MOTION:** To approve the extension of the Temporary QP for "B1", "B2" and "B8" for another 30 days until December 7 by Commissioner Runbeck.  
Seconded by Commissioner Baker.

**AMENDED**

**MOTION:** To amend the motion to run the extension through December 15 by Commissioner Runbeck.  
Seconded by Commissioner Baker.

**VOTE ON AMENDED MOTION:** 4-0 Amendment passes.

**VOTE ON ORIGINAL MOTION:** 4-0 Motion carried.

**C. Richardson, Stephen Paul**

**DSR Pest Management**

*Mr. Richardson appeared.*

*Lisa Gervase summarized what was in the record by stating that Mr. Richardson's temporary QP was issued a month ago, and that his application for QP licensure has not been received yet. She also stated that a few months ago, the Commission adjudicated a case involving Mr. Richardson's company. The case involved unlicensed activity and a reticence to settle on the part of the business licensee until the morning of the July Commission meeting. Further, the company did not submit TARFs, made false statements on some documents, and used another business license number. Commissioner Runbeck expressed concern about Mr. Richardson's history of making false statements. Commissioner Robinson expressed concern about Mr. Richardson dragging his feet, specifically regarding the settlement of the last case and the fact that he hasn't done anything so far to get a QP license. Mr. Richardson stated that the man who was QP of the pest control company at the time abruptly left, giving notice to the Commission on August 6 to leave August 27. Mr. Richardson also stated that there were some areas of the test in which he did pass, but when the test became computerized, he lost some scores, had to start from scratch again, and his test scores did not apply. His time frame ran out and he had to wait one year before he could re-apply. Mike Francis stated that when testing procedures changed, each applicant was informed that if they had not completed the test by the beginning of the computer-based testing, then whatever results they previously had would be invalid. The reason for this is because, in addition to other changes, the test dramatically changed from a multi-part test to a core-and-category test. The six-month time frame was not affected. Commissioner Robinson asked Mr. Richardson what he has done to prepare himself for "B1" QP licensure, and if he has applied. Mr. Richardson stated that he is going to get fingerprinted in Phoenix, and his paperwork is ready to give to Robert Tolton. He stated that he will be inactive from November 7 through November 12, and that his paperwork was ready, but he just missed the deadline of August 24. Commissioner Fraker asked Mr. Richardson how long he has been associated with the business. Mr. Richardson stated that he has been associated since April 2000 and has had two QPs. Commissioner Fraker summarized Mr. Richardson's history by stating that he applied, tested and failed in 2000, applied, tested and failed again in 2003, was involved in the cases for not submitting TARFs, received administrative warnings and also had two counts of making fraudulent*

statements to inspectors. Mr. Richardson denied making false statements and using another business license number. Commissioner Fraker stated that according to the Commission's official record, Mr. Richardson's company was given several fines. Commissioner Robinson stated that Mr. Richardson does not have a good history of passing the test in two tries, and does not seem motivated to move ahead. Mr. Richardson stated that if his request is denied, he will not be able to perform any work after November 8, and will not be able to be approved to take the test or have another QP activated until November 12. He stated that his 500-600 customers and three employees will be hurt. Lisa Gervase stated that a second temporary QP license cannot be issued to this business. Commissioner Runbeck stated that he will have to refrain from operating his business for a minimum of five days. Mr. Richardson asked that his temporary QP be extended for five days.

**MOTION:** To deny the extension of the Temporary QP by Commissioner Robinson, based on the applicant not presenting good cause for the delay in procuring a QP license, as indicated by his lack of success on the QP exams in 2000 and 2003, and not proceeding timely with the process currently.  
Seconded by Commissioner Baker.

**VOTE:** 5-0 Motion carried.

(Break from 10:40 A.M. to 10:55 A.M.)

Commissioner Fraker asked that people sign in so that attendance can be documented, and that those licensed applicators who sign the attendance sheet will receive one hour of CE credit.

## **VI. Complaints against Licensees**

### **A. Burr Exterminating/Bruce Burr (BL)(QP)(App) - Case # 2004-036**

Commissioner Baker stated that he thinks the proposed agreement needs further review. He expressed concern about a QP, who should know better, misapplying a fumigant, which can potentially kill someone. Mike Francis stated that although violations did occur, other circumstances did come into play. Mr. Burr, Sr., the active QP, was not as active as he normally would be due to health reasons. Further, the fumigation was in the confines of their fenced-in facility. This occurred on his property, he had the place tarped and prepped by his employees and there were signs, although he did not properly placard the site. The bottle of fumigant was there, and there was every

indication to believe from a licensed applicator's standpoint that there was a potential that a fumigation had occurred or was being set up to occur. Mike Francis continued to state that the allegation of exposure by Mr. Burr, Jr. was not something that staff took lightly. Mr. Burr, Jr. sought medical attention from a specialist, but there was no medical confirmation of exposure. There were no witnesses. Mr. Francis stated that they did originally have civil penalties against the QP and applicator licenses separately, so the fines were doubled, but after talking with Mr. Burr, Sr., considering the facts and circumstances, it seemed as though combining the penalties made the most sense. Commissioner Baker stated that he understands this, but that there is a disregard for the requirements that a QP knows fully well, specifically that he displayed the wrong placard. Commissioner Baker stated that he believed this was purposeful and intentional, and that he does not want him to get off easy. Commissioner Runbeck expressed concern that Mr. Burr, Sr. had the janitor do the application. Mike Francis stated that Mr. Burr, Sr. was not physically up to par, and requested the help of a janitor to set the fumigant bottle in place and turn the handle to start the flow of fumigant, which is a violation. The janitor did not know how dangerous of a chemical it was. He was not involved in the operation of the business and had no prior pest control experience. Commissioner Runbeck asked if \$3,000 was the maximum possible penalty under the Matrix. Mike Francis stated that it was. Commissioner Baker asked if staff was comfortable with the proposed agreement. He stated that he was nervous about having a QP telling a janitor to do something like this because it puts the janitor in a tough position. The janitor has no choice but to follow the order, even though it could be potentially dangerous. Mike Francis stated that he told Mr. Burr, Sr. that this was a recommendation only and that it could be returned to staff to modify. Commissioner Baker asked if Mr. Burr, Sr.'s QP could be revoked. Lisa Gervase stated that this issue would have to be sent to hearing unless he consented to it. Commissioner Runbeck asked how cooperative the Burrs have been. Mike Francis stated that Mr. Burr, Sr. has been very cooperative, and that he drove from Tucson to Phoenix to meet with staff. Commissioner Baker stated that he has to be cooperative, or else he will be in deeper trouble. Commissioner Robinson asked if the product was used against label recommendations. Mike Francis stated that he believed that the label called for a soil fumigation, not necessarily for the items he was applying. Mike Francis also stated that the alleged exposure to licensed applicator Mr. Burr, Sr. occurred when he saw the tarp, placard and bottle with a hose into it, and he opened the tarp and stuck his head inside. Commissioner Baker expressed concern that the janitor could have done the same thing and died from it.

**MOTION:** To reject the proposed terms and send the matter to hearing based on stated factors and rationale by

*Commissioner Baker.  
Seconded by Commissioner Hartley.*

**VOTE:** 1-4 Motion failed. (Commissioners Hartley, Robinson, Fraker and Runbeck opposed)

*Commissioner Hartley appreciated Commissioner Baker's discussion on the dangers, but didn't want to send it to hearing because he felt this would prolong the whole process and put people through unnecessary hoops, and the result probably would not be any different. He stated that this is a test of whether the Matrix is a valuable product to have. He stated that we should either modify the Matrix or do away with it if we do not like the outcome. As egregious as the case is, it is best to rely on the Matrix and the work of staff. Commissioner Runbeck stated that we should encourage staff to try to work things out instead of sending it to hearing. She recommended doubling the fine. Commissioner Fraker agreed that a hearing will not accomplish much else. He suggested modifying the agreement, and suggested that the QP should not be doing any fumigations if not under good health or if showing poor judgment. He stated that we do not want to put more people at risk in the future. He suggested either temporarily suspending Mr. Burr, Sr. or getting an agreement from him to stop fumigations until his health improves. Mike Francis stated that when staff talked to him on the day of the conference in August, his health seemed fine, but staff can still modify.*

**MOTION:** *To return the matter to settlement conference to double the fine by applying \$3,000 against the QP license and \$3,000 against the applicator license, and to consider any limitations on Mr. Burr, Sr.'s fumigation work that would be appropriate (such as probation whereby any fumigation must be witnessed by the SPCC, suspension, etc.), if there is a risk of future harm by Commissioner Runbeck.  
Seconded by Commissioner Hartley.*

**VOTE:** 4-1 Motion carried. (Commissioner Baker opposed)

*Commissioner Hartley stated that he has known Mr. Burr, Sr. for thirty years, that he is a responsible person who was one of the first QPs in the state (QP #9), and that he is an entomologist. He stated that sometimes when people have used products for a long time, they become too familiar with them, and this is an example of what can result from that. Commissioner Robinson asked what percentage of the Burr Exterminating business involved fumigation. Mike Francis was not sure, but guessed that it was a small*

percentage. Commissioner Hartley stated that this might have been a case where Mr. Burr, Sr. was doing a favor for a friend because he had the right license. This was a back lot furniture fumigation, not a structural fumigation.

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

*Mr. Myers was present.*

**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 Hartley.  
Seconded by Commissioner Runbeck.*

**VOTE:** *5-0 Motion carried.*

**C. Matrix Pest & Termite Elimination, Inc./Dennis M. Garrett Jr. (President and BL)/Dennis M. Garrett Sr. (QP) - Case # 2004-022**

*Mike Francis stated that Matrix did reach a last-minute settlement with staff. Commissioner Robinson asked if members of Matrix gave a reason why they changed their mind all of a sudden. Mike Francis stated that they realized the facts that the Commission was going to present in hearing were valid.*

**MOTION:** *To accept the proposed terms, that Matrix Pest & Termite Elimination be issued an Administrative Warning and QP Dennis Garrett, Sr. be issued an Administrative Warning and Civil Penalty of \$600 (due within 30 days of the Commission Order) for the various violations laid out in the memorandum to the Commissioners by Commissioner Runbeck.  
Seconded by Commissioner Hartley.*

**VOTE:** *5-0 Motion carried.*

*Lisa Gervase stated that the settlement terms reflect the facts that Matrix had an unlicensed applicator completing a non-approved treatment proposal, the treatment proposal was not on an approved Commission form, and they did not have the business license name as licensed.*

**D. SOS Exterminating, Inc./Steven Weber (QP)/Steve Mayo, II (App) - Case # 2004-031**

**MOTION:** To send the matter to Administrative Hearing by Commissioner Runbeck.  
Seconded by Commissioner Robinson.

**VOTE:** 5-0 Motion carried.

**E. Control 365 Plus, Inc./Michael Matheson (QP)/Geoffrey Mark Schell (App) - Case # 2004-038**

*Commissioner Baker asked if the customer complained about the hole spacing being 16 inches instead of 12 inches. Mike Francis stated that the customer did not complain. Commissioner Hartley stated that the hole spacing with Termidor is critical because Termidor does not move very much in the soil and the right hole coverage is important. Commissioner Fraker stated that the label says to have 12 inch drill holes, and this is the crux of the matter.*

**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 Baker.  
Seconded by Commissioner Hartley.

**VOTE:** 5-0 Motion carried.

**VII. Unlicensed Activity Complaints**

*Commissioner Baker stated that there seems to be a number of unlicensed cases by landscaping companies who didn't realize they were in violation of the law but then say they will comply when they find out about the law. He wanted to know how we can inform the landscaping industry about the law, because we do not want to have more and more of these types of cases. Mike Francis stated that over the last two and a half years, he and other inspectors have attended Arizona Landscape Contractors Association meetings, where they have talked to companies to promote them putting out information in their newsletter. He stated that they also attended a horticulture landscape show, where they passed out flyers and pamphlets to inform people who sell products to the landscaping industry. He stated that staff is making a concerted effort. Lisa Gervase asked if these landscaping companies are registered by the Registrar of Contractors. Mike Francis stated that some are and some are not, and they have different*

requirements. Lisa Gervase suggested that they could get a list from the Registrar of Contractors, so that Commission staff can have the Registrar of Contractors inform landscaping companies of the SPCC and of pest control licensing requirements. Commissioner Runbeck suggested looking in the yellow pages under landscaping. Commissioner Hartley stated that the Commission has done a pretty good job of trying to get the word out. He stated that there is a mentality, especially with really small landscaping companies, that if you can get the chemical at Home Depot, it cannot be illegal to apply it. They are not getting the message. He stated that we have to fine people one by one if they are violating the law. This may be the only way the word will get out. Commissioner Robinson stated that a few of the companies here today went to a recognized purveyor of materials, not just Home Depot. He stated that when you deal with a wholesaler of materials, they keep your license number on file. He asked if this is only for restricted-use pesticides or if it is for the sale of any pesticides. Mike Francis stated that the only law that is in effect that requires licensing on the part of the seller is for restricted-use pesticides. Anyone can buy general-use pesticides. The problem lies in how the product is utilized. Commissioner Fraker stated that he called some distributors, and their response is that most people have been told and know the law. He stated that we could still make an effort through the Registrar of Contractors, but that we probably will not get cooperation from Home Depot. Staff is doing what they can do. Mike Francis stated that staff did well at the horticulture show, informing people who sold the products. However, he is not sure if everyone took it to heart.

**A. Abstract Landscaping (Unlicensed)/Troy Boswell (Owner) - Case # 2004-059**

*Mr. Boswell appeared.*

*Mr. Boswell stated that you don't have to be a licensed contractor to be a maintenance purveyor, and that information about licensing requirements is not reaching a huge percentage of people in Tucson who are just trying to pay their bills. He stated that he did not receive a warning notice, just a fine. Lisa Gervase asked what could be done, short of an order to pay a fine, to get the word out about licensing requirements. She asked if Mr. Boswell was a member of an association, and stated that she realizes that the sellers of products are not going to provide the information because then their sales would be hindered. Commissioner Fraker stated that some landscapers in Tucson do not have ROC licenses, but he suggested getting a list of the ones who do, and then sending notices to them.*

**MOTION:** *To accept the proposed agreement to issue a Cease and Desist Order and to impose a \$500 civil penalty against Abstract Landscaping/Troy Boswell, jointly and severally, to be paid within 30 days of Commission*

Order by Commissioner Hartley.  
Seconded by Commissioner Robinson.

**VOTE:** 5-0 Motion carried.

**B. Brooks Associates Landscape (Unlicensed)/Jeffery D. Brooks (Owner) - Case # 2004-043**

*Mr. Brooks appeared.*

*Mr. Brooks stated that he is a licensed landscaper, has been in the business for 22 years, and this is the first he has heard about needing a license to do this type of work. He stated that he understands the cease and desist order, but that a \$500 fine is extreme. He stated that a lot of people do not know about the SPCC. He suggested that staff consult the yellow pages and Registrar of Contractors and send notices out to landscaping businesses. He stated that he is an ALCA member and receives many publications, and that is the job of the SPCC to get the word out to landscapers. Lisa Gervase stated that it is actually the job of landscapers to know the law. The SPCC has approached the ALCA many times in the last few years and has sent out notices about licensing requirements. Mr. Brooks stated that people are still not getting the information, and suggested that people could be better made aware at the places where they get their chemicals. Lisa Gervase stated that chemical suppliers can put notices out but choose not to. Mr. Brooks stated that he then feels that it is the responsibility of the Registrar of Contractors to inform, because they issued his business license. The ROC and Corporation Commission have told him what he needs to know so far. Mr. Brooks stated that he did not even know the SPCC existed, and was worried that there may be other regulatory boards that he does not know about. Lisa Gervase stated that the SPCC can do everything they can to inform, and people will still say that they have never heard of them. She stated that these types of cases need to be treated consistently unless there are aggravating or mitigating circumstances. Mr. Brooks asked if information had ever been put out in the news. Lisa Gervase stated that within the past year the Arizona Republic has written articles. Mr. Brooks stated that this is still problematic, as the Arizona Republic is not a local newspaper in Tucson. Commissioner Fraker stated that ignorance of the law is no excuse, and that Mr. Boswell has an obligation to understand rules and regulations, i.e. the Registrar of Contractors, Internal Revenue Service, Arizona Department of Revenue, Structural Pest Control Commission, etc., when running a business. He suggested that Mr. Brooks complain to the Registrar of Contractors for not informing him of SPCC licensing requirements. Commissioner Hartley asked Mr. Boswell if he had gotten a SPCC license, and Mr. Brooks stated that he hadn't, that he would out-source that aspect*

*of the business and would inform his customers that he cannot spray.*

**MOTION:** *To issue a Cease and Desist Order and to impose a \$500 civil penalty against Brooks Associates Landscape/Jeffrey D. Brooks, jointly and severally, to be paid within 30 days of Commission Order by Commissioner Robinson.  
Seconded by Commissioner Hartley.*

**VOTE:** 5-0 *Motion carried.*

**C. Choyal Landscaping, LLC (Unlicensed)/Jesse Inzunza (Member) - Case # 2004-041**

*Commissioner Runbeck stated that people should be encouraged to communicate with staff, and that she would be inclined to assess a higher penalty amount to those people who do not come to an agreement with staff, unless there are extenuating or mitigating circumstances. Lisa Gervase stated that the Commission does not have to hold settlement conferences with unlicensed people, and that staff does that voluntarily as an educational tool or perhaps to see if there are some facts that were previously undiscovered. She stated that unlicensed activity does not fall within the scope of the Matrix, and that it could be problematic to treat people differently based on whether they attend a settlement conference that is held as a courtesy.*

**MOTION:** *To issue a Cease and Desist Order and to impose a \$500 civil penalty against Choyal Landscaping, LLC/Jesse Inzunza, jointly and severally, to be paid within 30 days of Commission Order by Commissioner Hartley.  
Seconded by Commissioner Baker.*

**VOTE:** 5-0 *Motion carried.*

**D. Desert Glen Inc. (Unlicensed)/Charles B. Hawkins (President) - Case # 2004-048**

*Mr. Hawkins appeared.*

*Mr. Hawkins stated that he was aware of license requirements and cannot plead ignorance. He was confused about the penalty and thought that both he and the applicator, Mr. Albert Campos, were each fined \$600. Lisa Gervase stated that the fine was assessed only against Mr. Hawkins. Mr.*

*Hawkins then stated for the record that his company is not in the spraying business, he has outsourced this for a number of years, and he doesn't intend to apply for a SPCC license.*

**MOTION:** *To issue a Cease and Desist Order and to impose a \$600 civil penalty against Desert Glen, Inc./Charles Hawkins, jointly and severally, to be paid within 30 days of Commission Order by Commissioner Runbeck.  
Seconded by Commissioner Hartley.*

**VOTE:** 5-0 *Motion carried.*

**E. Eden Green, Inc. (Unlicensed)/Shannon V. Priest (President) - Case # 2004-047**

**MOTION:** *To accept the proposed agreement to issue a Cease and Desist Order and to impose a \$500 civil penalty against Eden Green, Inc./Shannon V. Priest, jointly and severally, to be paid within 30 days of Commission Order by Commissioner Baker.  
Seconded by Commissioner Hartley.*

**VOTE:** 5-0 *Motion carried.*

**F. Gray Plus Maintenance & Landscape dba G-P Maintenance and Landscape (Unlicensed)/Jared Gray (Owner) - Case # 2004-052**

**MOTION:** *To accept the proposed agreement to issue a Cease and Desist Order and to impose a \$500 civil penalty against Gray Plus Maintenance & Landscape/Jared Gray, jointly and severally, to be paid within 30 days of Commission Order by Commissioner Baker.  
Seconded by Commissioner Robinson.*

**VOTE:** 5-0 *Motion carried.*

**G. Infinity Earthworks Inc. (Unlicensed Business)/Darrin Seidel (President) - Case # 2004-016**

*Mr. Seidel appeared.*

*Mr. Seidel stated that his company has been doing landscape association maintenance for ten years in Tucson. He stated that they do pre-emergent work and need to continue to do so to please his current clients, even though this type of work represents a smaller percentage of income for his company,*

primarily in January and February. He stated that if he out-sources this type of work, he might lose some clients. He stated that he intends to comply, and that he has recently submitted an application for an applicator license in "B3" and "B5", and he thinks he may even be qualified for QP licensure. He hopes to be licensed by February, as it is difficult to out-source the pre-emergent work every time. He stated that in the past he provided the service of applying chemicals at no extra cost, and that he might charge for these services due to the cost of becoming licensed. He stated that his company is licensed with the state of Arizona ROC and also has a Certificate of Good Standing with the Corporation Commission. He stated that his company has never been in trouble before and that he thought the \$500 fine was quite high. Commissioner Fraker stated that he appreciated Mr. Seidel making the right step and his positive attitude, and that he will find it beneficial to have a SPCC license.

**MOTION:** To accept the proposed agreement to issue a Cease and Desist Order and to impose a \$500 civil penalty against Infinity Earthwork, Inc./Darrin Seidel, jointly and severally, to be paid within 30 days of Commission Order by Commissioner Runbeck.  
Seconded by Commissioner Baker.

**VOTE:** 5-0 Motion carried.

**H. A Landscape Team LLC (Unlicensed Business)/Garrett L. Rissmiller (Member)  
- Case # 2004-018**

*Mr. Rissmiller appeared.*

*Mr. Rissmiller stated that he has been in business for fourteen years in Tucson, and this was the first he had ever heard of needing to have a license to spray weeds. When this was brought to his attention, he stated that he was told by the Department of Revenue, who issued his business license, that he didn't need a separate license to spray Roundup or pre-emergent. He stated that he feels that the public should be notified before incidents like this occur, and that the fine is excessive. Commissioner Robinson stated that there are reasons for requiring licenses. He stated that spraying weeds may seem innocent, but there are still inherent dangers. Commissioner Fraker stated that the Commission has been fighting this issue, bringing it to the public's attention for the last 2-3 years, and there has been a significant effort to educate and spread the word to trade associations. He stated that sometimes it takes a large fine in order to get people's attention, but the public will be better served ultimately.*

**MOTION:** To issue a Cease and Desist Order and to impose a \$500 civil penalty against A Landscape Team LLC/Garrett L. Rissmiller, jointly and severally, to be paid within 30 days of Commission Order by Commissioner Baker.  
Seconded by Commissioner Robinson.

**VOTE:** 5-0 Motion carried.

**I. QSR Inc. (Unlicensed)/Jay DeBake (President) - Case # 2004-046**

**MOTION:** To accept the proposed agreement to issue a Cease and Desist Order and to impose a \$600 civil penalty against Q.S.R., Inc./Jay DeBake, jointly and severally, to be paid within 30 days of Commission Order by Commissioner Baker.  
Seconded by Commissioner Robinson.

**VOTE:** 4-0 Motion carried (Commissioner Hartley was out of the room).

**J. Ramiro Mireles Ramos (Unlicensed) - Case # 2004-051**

**MOTION:** To accept the proposed agreement to issue a Cease and Desist Order and to impose a \$500 civil penalty against Ramiro Mireles Ramos, to be paid within 30 days of Commission Order by Commissioner Robinson.  
Seconded by Commissioner Runbeck.

**VOTE:** 4-0 Motion carried (Commissioner Hartley was out of the room).

**K. T & S Landscaping Services, Inc. (Unlicensed)/Steve LaMagna (President) - Case # 2004-042**

**MOTION:** To accept the proposed agreement to issue a Cease and Desist Order and to impose a \$500 civil penalty against T&S Landscaping Services/Steve LaMagna, jointly and severally, to be paid within 30 days of Commission Order by Commissioner Baker.  
Seconded by Commissioner Runbeck.

**VOTE:** 5-0 Motion carried.

**L. We Got Ya Pest Control (Unlicensed)/Sergio E. Luna (Expired App) - Case # 2004-037**

*Lisa Gervase stated that the Commissioners have an addendum that states some additional facts about the case and explains why the civil penalty is proposed as it is. The business license was expired and suspended for non-payment of renewal fees, and later changed names. The applicator licenses expired. Staff believes, based on circumstantial evidence, that there were probably some months of unlicensed activity. She stated that Mr. Luna tried to work as a branch office under another pest control company and purchase pesticides under a different company name. Commissioner Runbeck asked what would be the highest penalty they could assess. Lisa Gervase stated that \$1,000 would be the maximum for the first unlicensed offense. Commissioner Fraker expressed concern that the company has no business license, no QP, an expired applicator license, and they are still doing business. Mike Francis stated that this was true with respect to one of the parties. Commissioner Fraker asked if staff expected Mr. Luna to pay the fine. Lisa Gervase stated that Mr. Luna did agree to it in settlement conference, and if he does not pay then the Commission can suspend his license for non-payment and seek collection. She stated that staff has been successful in collecting penalties in cases that are up to fourteen years old. Commissioner Runbeck expressed concern that this company could profitably just pay the fine and keep doing what they are doing. Mike Francis stated that it would be unlikely that they would fall off of staff's radar that easily. Commissioner Robinson stated that the company's name was accurate.*

**MOTION:** *To accept the proposed agreement to issue an Administrative Warning and to impose a \$1,000 civil penalty against We Got Ya Pest Control/Sergio E. Luna, jointly and severally, and to issue an Administrative Warning and \$800 civil penalty against Expired Applicator Sergio E. Luna, with the addition that a Cease and Desist Order be imposed against We Got Ya Pest Control/Sergio E. Luna. Civil penalties to be paid within 30 days of Commission Order by Commissioner Runbeck.  
Seconded by Commissioner Baker.*

**VOTE:** 5-0 Motion carried.

**M. Saint John Bosco Interparish School (Unlicensed)/Jesus Rocha (Unlicensed App) - Case # 2004-071**

Commissioner Runbeck asked what was different about this case that made it not involve a monetary penalty. Mike Francis stated that there were some extenuating circumstances. Only a couple of squirts of an over-the-counter aerosol was sprayed on ants in the back of a class room and in a coat closet where nobody was present.

**MOTION:** To accept the proposed agreement to issue a Cease and Desist Order against Saint John Bosco Interparish School and Jesus Rocha by Commissioner Runbeck. Seconded by Commissioner Robinson.

**VOTE:** 4-0 Motion carried. (Commissioner Baker abstained)

#### **VIII. For information and discussion, not action**

##### **A. Complaint Status Log**

Mike Francis stated that staff is progressing nicely with the complaints, and that next month could be another intense month. Commissioner Fraker stated that staff has been busy and has kept complaints timely. Lisa Gervase stated that the Complaint Status Log has been in a different format thanks to Mike Francis. She stated that Mike Francis set up a complaint-tracking database that keeps track of cases from their inception all the way through until a final adjudication. The Complaint Status Log is now pulled right from the database instead of the report being created manually.

#### **IX. For Commission consideration and action:**

##### **A. Case No. 95-131 - SPCC v. American Termite Pest, Inc., (Expired 9/13/00); John Chase (QP expired 12/31/97; Current Applicator License # 940411); Charles Marshall (Current Applicator License # 880174)**

**MOTION:** To accept the staff recommendation to dismiss the case without prejudice based on its age by Commissioner Robinson. Seconded by Commissioner Hartley.

**VOTE:** 5-0 Motion carried.

##### **B. Case No. 2001-021 - SPCC v. American Termite Pest, Inc. (Expired 9/13/00); John Chase (owner/officer; Current Applicator License # 940411); Alan Perry (QP license expired 12/31/00); Frank Keller (Applicator License # 970974 expired 5/30/00; Current Applicator**

**License # 010115)**

**MOTION:** *To proceed to hearing against Expired Business Licensee American Termite Pest, Inc. to revoke the license and to dismiss without prejudice the complaints against the QP and applicator by Commissioner Baker. Seconded by Commissioner Runbeck.*

**VOTE:** 5-0 *Motion carried.*

**C. Case No. 2000-020 - SPCC v. Terminix (BL), Brad Stratton (QP), Anthony Vendegna (Applicator License since expired), Daren Stafford (Applicator License since expired), Edward Johns (Applicator)**

*Mr. Brian Ferris, current QP for Terminix, appeared. Lisa Gervase stated that this case was initially a complaint involving failure to treat the depth of foot to the top of the footer during a pretreatment. However, this is the type of situation that was meant to fit into the current substantive policy statement, whereby treating to the DOF would create off site contamination or be impossible, and staff now recommends dismissal in light of the policy statement.*

**MOTION:** *To accept the staff recommendation to dismiss without prejudice Case No. 2000-020 by Commissioner Hartley. Seconded by Commissioner Runbeck.*

**VOTE:** 5-0 *Motion carried.*

*Commissioner Fraker left the room, and Commissioner Hartley became the interim chairperson for agenda items X.A and X.B.*

**X. Felony Applicants**

**A. Daley, Brendan William**

*Mr. Daley did not appear - application tabled.*

**B. Ramon, Arnold Vernon**

*Mr. Ramon did not appear - application tabled.*

**C. Tanner, Jr., Leslie William**

Mr. Tanner did not appear.

*Commissioner Runbeck asked why the Commission was addressing this again, given that they had addressed it in March 2004. Lisa Gervase stated that he asked if he could apply again, and despite advice that the decision may not change unless facts have substantially changed, Mr. Tanner wanted to apply again. Commissioner Runbeck prefaced her vote by stating that she remembered from the previous meeting that she had dissented from the denial for various reasons.*

**MOTION:** *To deny application, for the same reasons it was denied in March 2004, and that the facts have not materially changed by Commissioner Robinson.  
Seconded by Commissioner Baker.*

**VOTE:** 4-1 *Motion carried. (Commissioner Runbeck opposed)*

#### **D. Van Zandt III, Lawrence Dow**

*Mr. Van Zandt appeared. His father, QP and business owner, also was present.*

*Mr. Van Zandt stated that he has been in the pest control business since the 1970s. He stated that he did pest control before you even had to have a license to be an applicator. Mr. Van Zandt and his father ran a business out of their house. Mr. Van Zandt worked for his father in the early 1990s, around 1982 part-time in high school, and even unpaid in the late 1970s before he could drive. Commissioner Runbeck stated that Mr. Van Zandt had an obvious drug problem. She asked how long he has been off of drugs, if he is still on probation and being tested. Mr. Van Zandt stated that he was released from DOC in 1997, was off parole in 2001, and has had his rights restored. Any problems with drugs have been resolved, and he has done his best to put this period of his life behind him. He stated that while on parole, he did drug testing and did not test positive. Commissioner Robinson asked Mr. Van Zandt what his plans are if he is granted a license. Mr. Van Zandt stated that he intends to maintain his father's business for at least another six months, whether he ultimately decides to sell it or keep the business, and that his father holds the QP for the business. Commissioner Fraker stated that the Commission does this process for a purpose, and stated that he would like for Mr. Van Zandt to understand the seriousness of the situation. He encouraged Mr. Van Zandt to put this type of life behind him.*

**MOTION:** *To approve application by Commissioner Robinson.  
Seconded by Commissioner Runbeck.*

**VOTE:** 5-0 Motion carried.

**E. Zagarrigo, Salvatore John**

*Mr. Zagarrigo appeared.*

*Commissioner Runbeck asked Mr. Zagarrigo when his last drink was. Mr. Zagarrigo stated that it was in 1996. Commissioner Runbeck asked if Mr. Zagarrigo has had any problems with the law since 1996. Mr. Zagarrigo stated that he has not, specifically regarding driving or tax returns. He stated that he knows about pesticide applications. He stated that all of his rights have been restored since 2000, and he has a current Arizona driver's license. He stated that he is employed with a school that has been outsourcing. He was promoted to facility manager of the school two years ago, and has been with the school district for ten years.*

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

**VOTE:** 5-0 Motion carried.

**XI. For information, discussion, and possible action**

**A. Continuing Education Committee Minutes**

**MOTION:** To approve the 2004 Continuing Education Committee Minutes put together by Carl Martin by Commissioner Baker.  
Seconded by Commissioner Hartley.

**VOTE:** 5-0 Motion carried.

**XII. For information and discussion, not action**

**A. Computer Based Testing "CBT" Status and Statistics**

*Lisa Gervase stated that test-takers, whether they pass or fail, are given a score report telling them the number of questions passed per content area, and this is now available for all exams except the fumigation exams and a few of the QP exams. She stated that she also forwarded a letter from Mr. Means to the Commissioners providing information to staff about their audit of the testing sites and how he has made the atmosphere more conducive to test-taking. Commissioner Fraker stated that this will be good for the industry. Lisa Gervase stated that previously the test feedback was being done manually by Carl Martin, Robert Tolton, Mike Francis and Lisa Gervase. Now it is automatic, so the new procedures will help staff now also.*

Commissioner Robinson stated that there was a problem with an individual test with a computer going down in Prescott 3-4 times during an exam, and that individual failed two exams by only one question. Commissioner Robinson stated that from an educational and practical experience standpoint, this individual was the least qualified of any of the three that he has had test this year, yet has done the best on the exams. Lisa Gervase stated that people she had talked to who were not able to pass the exam were saying that they either did not study because they thought they knew it all, or they were overanalyzing questions. She stated that if someone fails by only one question, it should be brought to her attention so that she can look at the exam.

### **XIII. Approval of Minutes**

#### **September 10, 2004 (regular session) Minutes**

**MOTION:** To approve the September 10, 2004 Minutes by Commissioner Runbeck.  
Seconded by Commissioner Hartley.

**VOTE:** 5-0 Motion carried.

### **XIV. Scheduling of future meetings/agenda items**

#### **Current Proposed dates**

**November 12, 2004**

**December 10, 2004**

**January 14, 2005** - Commissioner Hartley not available.

**February 11, 2005** - Commissioner Robinson not available.

**March 11, 2005** - Commissioner Peterson may not be available.

**April 8, 2005**

### **XV. For information and discussion, not action**

#### **A. Expenditure Report**

Lisa Gervase stated that she will receive numbers from the General Accounting Office next week, and will email an expenditure report to the Commissioners before the next meeting.

#### **B. Case Status Report**

Lisa Gervase stated that the Case Status Report changes daily, and that there will

*probably always be between 60-100 active cases ongoing. These are cases that have already been through the complaint stage and become cases after the Commission votes to do something with them. There are current and old cases that Maggie Vazquez and Eric Bauer are cleaning up. She stated that by the end of the calendar year, any case that was adjudicated more than five years ago should be totally cleaned up or else sent to the Attorney General's Office for collection. Then, staff will deal with cases within the past five years, making sure they have been fully adjudicated, complied with, entered into the database and properly closed. This should not be too big of a job. Commissioner Fraker asked how many cases are older than five years. Lisa Gervase stated that just about all of them (~200) are. Commissioner Fraker recognized that this job is a major undertaking, and expressed appreciation of staff's efforts and attention to detail.*

**XVI. Adjournment - 12:45 P.M.**

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

**VOTE:** *5-0 Motion carried.*