

**Structural Pest Control Commission  
9535 E. Doubletree Ranch Road  
Scottsdale, AZ 85258**

**COMMISSION MEETING  
FRIDAY, August 12, 2005 - 9:00 A.M.  
MINUTES**

**AGENDA**

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

**Commissioners Present:** Commissioners Paul Baker, Mike Fraker, Robert Hartley, Mary Leavitt, Virgil Robinson and Jack Peterson

**Commissioners Absent:** Commissioner Debbie Runbeck

**Staff Present:** Jason Aanderud, Eric Bauer, Dave Colvin, Vince Craig, Ron Felix, Mike Francis, Lisa Gervase, Sue Hathon, Robert Tolton, and Assistant Attorney General M. Elizabeth (Lisa) Burns

**I. Call to Order**

**II. Call to the public**

*None.*

**III. Communication with Commissioners**

*None.*

**IV. Summary of Current Commission Events, Activities, Notices**

⇒WDIIR on Web-site in editable format

☺Applicator License Renewals - Expired after May 30, 2005; Reapply/retest after July 29, 2005

📺Watch Web site for future postings about Law and Rule Proposed Changes

☆Staff Awards: 17 Commission staff-members received awards for 5-21 years of service

**V. Consent Agenda**

**A. Applications for New Business License**

**Qualifying Party**

- 1. Preece, Thomas J. Zip-Zap Termite and 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)
- 2. Keil, Terry Joe BioPure Pest Control** (Activating Qualifying Party for new business license in "B1" General Pest & Public Health)
- 3. Simonson, William J. W. J. Simonson Services** (Activating Qualifying Party for new business license in "B3" Right of Way & Weed Control and "B5" Turf & Ornamental Horticulture)
- 4. Foster, Bruce Arden Foster's Lawn Care, Inc.** (Activating Qualifying Party for new business license in "B3" Right of Way & Weed Control)
- 5. Pride, Robert J. Budget Pest Prevention of AZ** (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)

*Pulled.*

*Michael Ray Smoot, business license applicant, appeared.*

*The Commission had some discussion and asked some questions about the name Value Pest.com.*

**MOTION:** *To approve activating QP for new business license in "B1", "B2" and "B8" for the name ValuePest.com by Commissioner Hartley. Seconded by Commissioner Robinson.*

**VOTE:**

4-0 Motion carried (Commissioners Baker and Leavitt abstained).

**6. Hageman, Ed**

**Karsten Pest Technologies** (Activating Qualifying Party for new business license in "B1" General Pest & Public Health, "B2" Control of Wood-Destroying Insects, "B3" Right of Way & Weed Control, "B4" Fumigation, "B5" Turf & Ornamental Horticulture and "B8" Wood Destroying Insect Inspection)

**7. Ahearn, James R.**

**Perfectionist Pest Control** (Activating Qualifying Party for new business license in "B1" General Pest & Public Health)

**8. Ramirez, Arturo G.**

**Crusher Termite, LLC.** (Activating Qualifying Party for new business license in "B2" Control of Wood-Destroying Insects and "B8" Wood Destroying Insect Inspection)

**9. Carmack, Mary Therese**

**Good Earth Pest Management** (Activating Qualifying Party for new business license in "B1" General Pest & Public Health)

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

**1. Silvers, Charlie**

**Superior Weed & Pest Control, LLC.** (Activating Qualifying Party for existing business license in "B3" Right of Way & Weed Control and "B5" Turf & Ornamental Horticulture)

**2. Camacho, Ruben**

**In Celebration of Golf Management, LLC.** (Activating Qualifying Party for existing business license in "B3" Right of Way & Weed Control and "B5" Turf & Ornamental Horticulture)

3. **Adkins, Scott Everett** **S O S Exterminating, Inc.** (Activating Qualifying Party for existing business license in "B3" Right of Way & Weed Control)
4. **Emmord, Ralph F.** **High Desert Pest & Weed Control** (Activating Qualifying Party for existing business license in "B1" General Pest & Public Health)
5. **Glaser, Leon T.** **Ecolab Pest Elimination Division** (Activating Qualifying Party for existing business license in "B1" General Pest & Public Health, "B2" Control of Wood-Destroying Insects, "B4" Fumigation & "B8" Wood Destroying Insect Inspection)

### **C. Applications for Qualifying Party License**

1. **Lindsey, Matthew Michael** "B1" (General Pest & Public Health)
2. **Winter, Alexander Lee** "B3" (Right of Way & Weed Control)

*Tabled.*

*Matthew McDonald, Area Manager for Evergreen Lawn Sprinklers from 01/22/05 to 06/16/05, appeared.*

*Brian Leduc, QP and Operations Manager for Evergreen Lawn Sprinklers, appeared.*

*Mr. McDonald stated that he worked with Mr. Winter at Evergreen Lawn Sprinklers and that his name was submitted as verifying Mr. Winter's experience. However, he stated that he is not aware of the verification of experience document because he did not verify Mr. Winter's experience or sign the form, and also some of the time frames fall outside of the time frames that were supposedly verified, as Mr. Winter's employment started in January, 2005 but has since ended. He stated that his name is on hundreds of documents and someone may have gotten his signature. Commissioner Baker suggested that the matter be tabled until the Commission has more information.*

**3. Perez, Jose Garcia** "B3" (Right of Way & Weed Control)

*Pulled-Mr. Perez appeared.*

*Commissioner Hartley stated that it seems that Mr. Perez, along with other applicants who have had felony convictions but have been approved as applicators, seem like they are being grand fathered into QP licensure. He asked what the legal opinion or policy is. Lisa Burns stated that the Commissioners could deny applicant QP testing but would need to have specific reasons as to why the felony conviction makes a difference for the QP license but not the applicator license. Commissioner Hartley stated that the Commissioners do at least have the right to ask questions of the applicant, because they may not want to give him the green light to get a license in any category. Robert Tolton stated that this case is a bit different from other ones in that Mr. Perez disclosed a felony when he originally applied to the Commission even though he was only convicted of a misdemeanor and nothing else. Commissioner Fraker stated that the standard is higher for QP licensure than for applicator licensure, and so information from the conviction should be included. In the past the Commission has given certain people the opportunity to test for an applicator license, but it might not be best to give those people the opportunity to run a company. Robert Tolton stated that people who apply for QP licensure do not get any special treatment and that they have to go through another background check and Commission review. Commissioner Baker stated that it is important to look at the nature of the felony. For example, a felony conviction for fraudulent check writing doesn't necessarily impact an applicator's duties, but it could impact the duties of a QP. Mr. Perez stated that since the felony arrest, he has raised a family with four children.*

**MOTION:** *To approve QP testing in "B3" by Commissioner Hartley.  
Seconded by Commissioner Baker.*

**VOTE:** *6-0 Motion carried.*

**4. Martinez, Edward** "B1" (General Pest & Public Health)

*Pulled-Mr. Martinez appeared.*

*Commissioner Baker stated that a man named Todd Martin had a problem with Mr. Martinez getting a QP license because of an agreement not to have a business within a certain number of miles. Commissioner Peterson stated*

*that that is an issue between the two of them, but there could be a related character issue for the Commission to consider also. Mr. Martinez stated that he moved out to Chicago and was weighing his options out there. Mr. Martin helped him fill out the application and verified his experience. So, Mr. Martinez decided to come back here. Lisa Burns affirmed that the non-compete clause is not the Commission's issue and that they would need more evidence than they have here to decide that Mr. Martinez is not of good moral character. Commissioner Fraker stated that the issue is whether he has the requisite experience.*

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

**VOTE:** 6-0 *Motion carried.*

**5. Hultman, Julia Marie** "B3" (Right of Way & Weed Control)

**6. Kopcheck, William Charles** "B3" (Right of Way & Weed Control) &  
"B5" (Turf & Ornamental Horticulture)

**7. Gonzalez, Joseph J.** "B3" (Right of Way & Weed Control)

*Pulled. The Commission had a similar discussion to item C.3 above.*

**MOTION:** *To approve QP testing in "B3" by Commissioner Hartley.  
Seconded by Commissioner Baker.*

**VOTE:** 6-0 *Motion carried.*

**8. Felix, Ronald David** "B2" (Control of Wood-Destroying Insects) & "B8" (Wood Destroying Insect Inspection)

**9. Geary, Craig Steven** "B3" (Right of Way & Weed Control) &  
"B5" (Turf & Ornamental Horticulture)

**10. Pisano, Napoleon** "B3" (Right of Way & Weed Control)

*Pulled-Mr. Pisano appeared.*

*Commissioner Hartley asked when Mr. Pisano would be taking the "B1" and "B5" tests. Mr. Pisano stated that he would do so when he meets the qualifications.*

**MOTION:** *To approve QP testing in "B3" by Commissioner Hartley.  
Seconded by Commissioner Fraker.*

**VOTE:** *6-0 Motion carried.*

**11. Rottenbucher, Stuart Frank** "B1" (General Pest & Public Health), "B2" (Control of Wood-Destroying Insects) & "B8" (Wood Destroying Insect Inspection)

**D. Business License Name Change Requests**

*None.*

**End of Consent Agenda**

**MOTION:** *By Commissioner Fraker to accept Consent Agenda with the exception of those items pulled for discussion (A5, C2, C3, C4, C7, C10).  
Seconded by Commissioner Baker.*

**VOTE:** *6-0 Motion carried.*

**VI. Applications not on Consent Agenda**

**A. Request for Temporary Qualifying Party License Renewals**

**1. Kregg, Jeffrey** Buggy Pest Control, LLC.

*Mr. Kregg appeared.*

*Commissioner Peterson noted that this is Mr. Kregg's first request for renewal and asked why he has not been able to get anyone to act as his QP.*

*Mr. Kregg stated that the pool for inactive "B1" QPs is small. Some people have non-compete clauses and others don't want to take on the liability. He stated that some people are willing to let him work under their company name, but that would throw his work in building his name out the window. Spending the money is not the issue. Commissioner Peterson asked Mr. Kregg if he can qualify for a QP license. Mr. Kregg stated that the previous QP under whom he worked 2,000 hours left the state, and he does not qualify by the book. Commissioner Peterson stated that if the Commission votes to extend, then Mr. Kregg could be back before the Commission again in two months. He stated that the Commission is setting a hard line regarding temporary QPs, and if Mr. Kregg comes back again with another request he probably won't be approved. Commissioner Fraker asked how large the pool of inactive QPs is. Robert Tolton stated that there approximately 210. Mr. Kregg stated that only 15-20 of those are in the "B1" category though. Commissioner Baker asked how long it would be until Mr. Kregg could get enough hours to qualify. Mr. Kregg stated that he would need about six more months. And this presents another problem in trying to hire a QP because most people want to sign a contract for at least a year or two. Commissioner Hartley stated that it sounds like the Commissioners are being asked to solve a business problem, and, although he does not mean to be callous, it isn't the Commissioners' problem to solve. Mr. Kregg stated that he is just looking for more time. He stated that he has received some email responses but has not heard back from all of the people he has contacted. The temporary QP license he has now expires on August 20. Lisa Gervase stated that staff feels that Mr. Kregg has shown good cause, made the efforts and has been compliant. Commissioner Peterson agreed.*

**MOTION:** *To approve temporary QP renewal in the "B1" category for 60 days by Commissioner Baker.  
Seconded by Commissioner Hartley.*

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

## **2. Pisano, Napoleon**

Lawn Doctor of Mesa

*Mr. Pisano appeared.  
Richard Harris was present.*

*Commissioner Peterson noted that a letter was written saying that his previous QP left but would continue to assist in the business. Mr. Pisano stated that Richard Harris was working with him as QP but stopped*

*unexpectedly and now is just an associate. Mr. Pisano submitted an application for a temporary QP while in the process of trying to secure a QP or test successfully for his own QP license. Commissioner Hartley stated that he does not think that the Commission should continue to grant temporary QP licenses to Mr. Pisano in the "B1" and "B5" categories until Mr. Pisano has enough hours to get his own QP license. It would set a bad precedent. He asked how Mr. Pisano is going to fill the QP spot. Mr. Pisano stated that he is working towards getting qualified and that he is taking a college course to use towards the number of experience hours required. He stated that he has also been contacting inactive QPs but has not been successful in recruiting one. Commissioner Robinson asked why Mr. Harris is not a viable option. Mr. Pisano stated that Mr. Harris is a QP for another business. Commissioner Fraker stated that it appears that Mr. Pisano has some credentials in the "B3" category but not enough in the "B1" and "B5" categories, and the Commission does not know how long it will take to gain these credentials. Commissioner Peterson stated that it appears that Mr. Pisano is making the effort and contacting inactive QPs, and in order for the Commission to remain consistent, because they just approved Mr. Kregg's request for a temporary QP license renewal in a similar situation, they should also approve Mr. Pisano's request.*

**MOTION:** *To approve temporary QP renewal in the "B1", "B3" and "B5" categories for 60 days by Commissioner Hartley. Seconded by Commissioner Baker.*

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

### **3. Bippus, Brad**

**Agassiz Landscape Group, LLC.**

*Mr. Bippus appeared.*

*Mr. Bippus stated that his previous QP was working for a golf course company, then came to work for him, and then left for another company about two months ago. Commissioner Robinson stated that he knows this former QP from Prescott. He stated that he has enough experience hours to qualify for his own QP license and will be coming before the Commission soon for approval to test. Commissioner Peterson asked what Mr. Bippus would do if he is approved by the Commission but doesn't pass the test. Lisa Gervase stated that it would be October at the earliest before Mr. Bippus could come before the Commission because staff does not have a background check or fingerprints on file. Mr. Bippus stated that his current temporary QP license expires in four days. Commissioner Peterson noted*

that Mr. Bippus hasn't even tried to get a QP to work for him. Mr. Bippus stated that he has enough verifiable experience hours in the "B5" category but not in the "B3" category, and the weed season in Flagstaff, where he works, will be over in two months anyway. Commissioner Robinson asked if the turf and ornamental season in Flagstaff would also be over soon. He asked how much of Mr. Bippus' business is in the turf and ornamental category. Mr. Bippus stated that he would have the winter time to study for the turf and ornamental test while trying to hire a "B3" QP.

**MOTION:** To approve temporary QP renewal in the "B5" category for 60 days and to deny temporary QP renewal in the "B3" category because there is no good cause for the delay in procuring a QP, by Commissioner Fraker. Seconded by Commissioner Hartley.

**VOTE:** 4-1-1 Motion carried (Commissioner Peterson opposed, Commissioner Robinson abstained).

(Break from 10:05 A.M. to 10:15 A.M.)

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

### **1. Dunn, Oby Allen**

**All Pro Pest Control** (Activating Qualifying Party for existing business license in "B1" General Pest & Public Health, "B2" Control Wood-Destroying Insects and "B8" Wood Destroying Insect Inspection)

*Mr. Dunn appeared.*

*Mr. Dunn stated that he inactivated his license while in jail. Lisa Gervase stated that the Commission did not know about the August, 2004 felony conviction when Mr. Dunn inactivated. Lisa Burns stated that there will be a new case about the lack of notification. She also stated that there are only two requirements to activate a QP license: an exam or appropriate continuing education.*

**MOTION:** To approve activating QP for existing business license in "B1", "B2" and "B8" by Commissioner Baker. Seconded by Commissioner Hartley.

**VOTE:** 6-0 Motion carried. (Roll call vote: Commissioner

Hartley-Yes, Commissioner Robinson-Yes, Commissioner Fraker-Abstain, Commissioner Baker-Abstain, Commissioner Leavitt-Abstain, Commissioner Peterson-Yes) [Abstention votes are "ayes" for purpose of breaking a tie.]

**VII. Complaints**

**A. Full Moon Landscaping (Unlicensed)/Tim Kerr (Owner) - Case # 2005-016**

*Mr. Kerr appeared.*

*Mr. Kerr stated that he was not aware of the need for a license to spray Roundup, but he has since ceased and desisted. He now wants to comply and has applied for an applicator license. Mr. Kerr explained that a civil penalty for him was onerous and expressed concern about informing people of the licensing requirements. Consensus by Commission to allow 3-month payment plan and for Mr. Kerr to bring further ideas and questions to Ms. Gervase.*

**MOTION:** *To accept proposed resolution and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to impose the terms in an Order, by Commissioner Fraker. Seconded by Commissioner Robinson.*

**VOTE:** 6-0 *Motion carried.*

**B. A. Bedder Pest Control Company, Inc. dba A. Bedder Pest Control Co. (BL)/Steven C. Barrett (President/CEO/QP) - Case # 2005-026**

*Mr. Barrett appeared.*

*Commissioner Peterson asked how the \$600 civil penalty against the QP was determined. Jason Aanderud stated that staff, in trying to remain consistent among similar cases, imposed \$100 for each of the six months of unlicensed activity. Mr. Barrett stated that he would not commit this violation again.*

**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 Fraker.  
Seconded by Commissioner Baker.

**VOTE:** 6-0 Motion carried.

**C. A Security Pest Control Co. (BL)/David Begeman (Sole-Proprietor/QP)/Christopher Kane (APP) - Case # 2005-015**

*Jason Aanderud stated that this case is a bit different because the violation involved performing inspections and supplements and did the respondents did not actually charge for them. They weren't doing WDIIRs for money without a license, so staff viewed it as a single count instead of taking into account all 80 inspections that were performed. Against the QP, \$100 was assessed for lack of training and supervision and also \$100 was assessed for not ensuring that the applicators were licensed in the appropriate categories. Commissioner Hartley asked what constitutes a count. Could it be minutes, hours, days? Commissioner Peterson stated that as long as they are consistent, a count be just about anything reasonable, such as number of months or number of treatments. Lisa Gervase stated that, although it is more of an art than a science in determining what a count is, for 90-day unlicensed cases such as this one, staff will typically multiply two times the number of months times a \$100 civil penalty each.*

**MOTION:** *To accept proposed resolution for the business and qualifying party licensees and David Begeman's applicator license 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, to dismiss without prejudice the complaint against Christopher Kane's applicator license and to suspend Christopher Kane's applicator license #030341 for non-payment of renewal fees, by Commissioner Fraker.  
Seconded by Commissioner Baker.*

**VOTE:** 6-0 Motion carried.

**D. LSV Landscaping & Horticultural Maintenance, LLC. (Unlicensed)/Sylvia Perales Velazquez (Member/APP) - Case # 2005-019**

*Commissioner Robinson asked whether there was consistency in this case because, in another unlicensed situation, the Commission only assessed a \$300 penalty. Here, however, the respondent has an applicator license, yet*

she says she does not even know about a QP license. Jason Aanderud stated that technically this is not an unlicensed case. Ms. Velazquez worked for the school district and didn't think that she need to have a QP. Staff treated it slightly differently and imposed a CE requirement. Lisa Gervase stated that staff would appreciate input from the Commissioners about people like this who have an applicator license but don't have business or QP licenses. Commissioner Robinson asked if this person would have the necessary insurance. Lisa Gervase stated that she would not. Commissioner Robinson stated that it seems like she should know a bit more about this because she has an applicator license. Commissioner Fraker agreed that licensed applicators should be more knowledgeable and stated that he was under the impression that the school does not have to have a QP.

**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 regarding the applicator to the Office of Administrative Hearings and to impose the terms regarding the unlicensed business in an Order, by Commissioner Fraker.  
Seconded by Commissioner Leavitt.

**VOTE:** 4-2 Motion carried (Commissioners Baker and Robinson opposed).

**E. Landscape Professionals, Inc. (Unlicensed)/Thomas S. Williams (APP) - Case # 2005-018**

Jason Aanderud stated that this case is almost identical to the previous case. He stated that Mr. Williams did put in an application to test for a QP license but did not make it in time for this meeting.

**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 regarding the applicator to the Office of Administrative Hearings and to impose the terms regarding the unlicensed business in an Order, by Commissioner Fraker.  
Seconded by Commissioner Hartley.

**VOTE:** 5-1 Motion carried (Commissioner Robinson

*opposed).*

**F. SunWest Termite & Pest Management, Inc. (BL)/Kristen Connolly (President/CEO)/Brent A. Connolly (QP)/Jared N. Connolly (APP) - Case # 2005-004 (Mr. Aanderud)**

*John Bartholomew, complainant/homeowner, appeared.  
Brent Connolly appeared.*

*Mr. Bartholomew explained the situation to the Commission. Mr. Connolly explained his understanding of the situation.*

**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 Baker.*

**VOTE:** 6-0 *Motion carried.*

**G. Safeguard Pest Control (BL)/Aaron Allred (President/CEO)/Adam Johnson (QP)/Jason Workman (APP/Temporary QP) - Case # 2005-001**

*Mr. Allred appeared. The Commission read Mr. Johnson's statement.*

*The Commission and Mr. Allred read the letter that Mr. Johnson submitted shortly before the meeting. The Commission heard Mr. Allred's responses to Mr. Johnson's letter.*

**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 Baker.  
Seconded by Commissioner Robinson.*

**VOTE:** 5-0 *Motion carried (Commissioner Fraker abstained because not present for the Motion).*

**H. Bulwark Exterminating, LLC. (BL)/Aaron J. Seever (Member)/Todd Martin (QP)/Jacob Ryan Bergen (APP) - Case # 2004-133**

*Mr. Bergen appeared.*

*Commissioner Hartley asked Mr. Bergen if he left material in the truck. Mr. Bergen stated that he did. Commissioner Hartley noted that Mr. Bergen had been warned previously about this. Mr. Bergen stated that this was an oversight during a busy time.*

**MOTION:** *To accept proposed resolution for the applicator and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to send the case to the Office of Administrative Hearings, and to dismiss the complaint against the business and qualifying party licensees, by Commissioner Hartley. Seconded by Commissioner Baker.*

**VOTE:** 6-0 *Motion carried.*

**I. General Exterminating, Inc. (BL)/Thomas Edward McCormick, II (President/CEO/QP) - Case # 2004-162**

*Mr. McCormick appeared.*

*Commissioner Hartley asked what the problem was in getting his applicator licensed. Mr. McCormick stated that there was no problem and that it came to light when Inspector Harback conducted an office inspection. He stated that he did not know that the applicator wasn't licensed and that he let it slip. He stated that he sent the applicator to school, paid for his testing, but licensure just didn't happen. He stated that he has 14 technicians, and all of them become licensed. Commissioner Hartley asked if there was a system for checks and balances now. Mr. McCormick stated that there is.*

**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 Baker. Seconded by Commissioner Robinson.*

**VOTE:** 6-0 *Motion carried.*

**J. Conn Pest Control - Prescott, LLC. (BL)/Arnold Shelton (Member/QP)/Zachary M. Roush (APP) - Case # 2005-023**

*Mr. Shelton appeared.*

*Mr. Shelton stated that they have mitigated the situation by extending the warranty for two years, and the applicator for the site is no longer employed with Conn. Commissioner Fraker asked if Mr. Shelton is satisfied with the resolution. Mr. Shelton stated that he is.*

**MOTION:** *To accept proposed resolution for the business and qualifying party licensees 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, to dismiss without prejudice the complaint against Zachary M. Roush's applicator license, and to suspend Zachary M. Roush's applicator license #040011 for non-payment of renewal fees, by Commissioner Baker.  
Seconded by Commissioner Hartley.*

**VOTE:** 6-0 *Motion carried.*

**K. Black Sheep, LLC. dba Ant Brian's Exterminating Company (BL)/Richard Collins (Member)/Doug Jackson (Member)/Steve Jackson (Member)/Brian Wayne Oldham (QP/APP) - Case # 2004-009**

*Jason Aanderud stated that he spoke with Mr. Steve Jackson, who was agreeable to the terms of the proposed resolution, although Black Sheep is no longer a corporation. He stated that Mr. Jackson stated that if Mr. Oldham did not take care of his part of the agreement, then Mr. Jackson would take care of the fine. Commissioner Hartley commended staff for the good work they put into this case.*

**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 Baker.*

**VOTE:** 6-0 *Motion carried.*

**VIII. Requests for Review or Rehearing of Previous Commission Decisions.**

*None.*

**IX. Review or Rehearing of Previous Commission Decisions.**

*None.*

**X. Consideration of Suspension of Business, Qualifying Party and/or Applicator Licenses for Non-payment of Civil Penalties and/or Nonpayment of Renewal Fees [Possible Dismissal of Cases without prejudice, if applicable].**

- A. Christopher P. Fanelli, Applicator License No. 950485 B1 B2 B8 [Issued 6/16/95] [Expired 5/31/04] - Case No. 2004-002 - Commission's consideration of Suspension of Christopher P. Fanelli's Applicator License for nonpayment of civil penalty fees.**

*Lisa Gervase stated that staff has attempted to contact Mr. Fanelli to no avail.*

**MOTION:** *To suspend the applicator license for non-payment of civil penalty fees, by Commissioner Baker.  
Seconded by Commissioner Hartley.*

**VOTE:** *6-0 Motion carried.*

- B. Tadd A. Hanson, Qualifying Party License No. 3046 B2 B8 [Issued 6/11/99] [Expired 12/31/04] - Commission's consideration of Suspension of Tadd A. Hanson's Qualifying Party License for nonpayment of renewal fees.**

*Lisa Gervase stated that Mr. Hanson has an inactive QP license. There was a pending complaint against his QP and applicator licenses, and instead of pursuing the complaint, because Mr. Hanson has not renewed his QP license, the Commission can now suspend the QP license for non-payment of renewal fees.*

**MOTION:** *To suspend the QP license for non-payment of renewal fees, by Commissioner Baker.  
Seconded by Commissioner Robinson.*

**VOTE:** *5-0 Motion carried (Commissioner Hartley abstained because not present in the room).*

- C. **Brett Alessandri, Applicator License No. 030494 B1 B2 B8 [Issued 5/28/03] [Expired 5/31/05] - Case No. 2003-128** - Commission's consideration of Suspension of Brett Alessandri's Applicator License for nonpayment of civil penalty fees.

**MOTION:** *To suspend the applicator license for non-payment of civil penalty fees if the civil penalty fees are not paid by Monday, August 15, 2005, by Commissioner Baker. Seconded by Commissioner Fraker.*

**VOTE:** 6-0 *Motion carried.*

- XI. **Consideration of lifting Suspension of Business, Qualifying Party and/or Applicator Licenses.**

*None.*

- XII. **Recommended Decisions and Orders of the Office of Administrative Hearings' Administrative Law Judges.**

- A. **SOS Exterminating, Inc. (BL)/Stephen Weber (QP)/Steve Mayo II (App) - OAH Docket # 04A-031-SPC/SPCC Case No. 2004-031**

*Lisa Burns, Assistant Attorney General for the State of Arizona, representing the Structural Pest Control Commission, appeared.  
Scott Richardson, attorney for the respondents, appeared.*

*Lisa Burns recommended that the Commission accept the Findings of Fact and Conclusions of Law and modify the Recommended Order to reflect that the civil penalties are to be paid within 30 days of the entered date of the Order. She also stated that, for the monitoring program suggested, as part of it, for 6 months, the company should have to pre-report pretreatments and final grades to the Commission, and within a certain number of days the company should also have to report to the Commission the amount of termiticide in their trucks. Scott Richardson stated that he thinks there are some problems with the Findings of Fact and Conclusions of Law, specifically his feeling that there needed to be a finding of a failure on the part of the QP to train, equip and supervise. He stated that the ALJ seemed to apply the Joint Responsibility Rule (A.A.C. R4-29-104) in a strict liability fashion, even though there is now legislation that applies it in other than a strict liability way. Lisa Burns stated that the ALJ made his findings and that the new law does not apply retroactively. After further discussion,*

*Commissioner Peterson stated, however, that Mr. Richardson did have the opportunity to make this same argument at hearing. Commissioner Hartley added that he sees lots of culpability for the business and QP when reading the Findings of Fact and he thinks they should share in the liability.*

**MOTION:** *To adopt the ALJ's Findings of Fact and Conclusions of Law, by Commissioner Hartley.  
Seconded by Commissioner Baker.*

**VOTE:** 6-0 *Motion carried.*

*There was discussion about the terms of the monitoring program.*

**MOTION:** *To accept the ALJ's Recommended Order with the modification that the civil penalties are to be paid within 30 days of the entered date of the Order, and a monitoring plan is to be developed and approved by the Commission at next month's meeting, by Commissioner Hartley.  
Seconded by Commissioner Baker.*

**VOTE:** 6-0 *Motion carried.*

**B. Timothy Fickett (App) - OAH Docket # 04A-151-SPC/SPCC Case No. 2004-151**

*Lisa Burns, Assistant Attorney General for the State of Arizona, representing the Structural Pest Control Commission, appeared.*

*Lisa Burns recommended that the Commission accept the Findings of Fact, Conclusions of Law and Recommended Order to revoke Mr. Fickett's applicator license.*

**MOTION:** *To adopt the ALJ's Findings of Fact and Conclusions of Law, by Commissioner Hartley.  
Seconded by Commissioner Fraker.*

**VOTE:** 5-0 *Motion carried (Commissioner Baker was out of the room).*

**MOTION:** *To accept the ALJ's Recommended Order, by Commissioner Hartley.  
Seconded by Commissioner Fraker.*

**VOTE:** 5-0 Motion carried (Commissioner Baker was out of the room).

**C. Charles Schulz (App) - OAH Docket # 04A-085-SPC/SPCC Case No. 2004-085**

*Lisa Burns, Assistant Attorney General for the State of Arizona, representing the Structural Pest Control Commission, appeared.*

*Lisa Burns recommended that the Commission accept the Findings of Fact and Conclusions of Law, and modify the Recommended Order to reflect that the civil penalty is to be paid within 30 days of the entered date of the Order and that the field pretreatment class that Mr. Schulz is required to take shall be pre-approved by Commission staff and shall be in addition to those continuing education hours required for annual license renewal.*

**MOTION:** *To adopt the ALJ's Findings of Fact and Conclusions of Law, by Commissioner Hartley. Seconded by Commissioner Baker.*

**VOTE:** 6-0 Motion carried.

**MOTION:** *To accept the ALJ's Recommended Order with the modification that the civil penalty is to be paid within 30 days of the entered date of the Order, and that the field pretreatment class that Mr. Schulz is required to take shall be pre-approved by Commission staff and shall be in addition to those continuing education hours required for annual license renewal, by Commissioner Hartley. Seconded by Commissioner Baker.*

**VOTE:** 6-0 Motion carried.

**XIII. Settlement Proposals [not part of Complaints agenda item].**

*None.*

**XIV. Consideration of Informal Settlement Conference proposed resolutions [for License Denial Applicants].**

*None.*

**XV. Reporting by Licensees on Probation.**

**A. Licensee's Probation Reporting: Benjamin Sanchez, Applicator License 050236 - Case 2005-007.**

*Lisa Gervase stated that Mr. Sanchez reports to the Commission every three months as a condition of his licensure. Mr. Sanchez has had negative urinalyses and positive letters from his employer. Commissioner Baker expressed appreciation and congratulations for Mr. Sanchez's efforts. Lisa Gervase stated that Mr. Sanchez will come to the Commission's meeting in Tucson in October (even though that is only two months away) because he lives in Tucson.*

**XVI. Applicants with Criminal Convictions**

**A. Francis, III; William Wilson**

*Tabled.*

**B. Jezek, Kevin Earl**

*Mr. Jezek appeared.  
Amado Arellano, Sales Manager for HomeTeam Pest Defense, LLC, appeared.*

*Commissioner Peterson asked Mr. Jezek what he was thinking when committing the felony. Mr. Jezek stated that he wasn't thinking. He was 18 years old then, but is 26 years old now and off probation. Commissioner Peterson asked if this was Mr. Jezek's only brush with the law. Mr. Jezek stated that he has had three felonies. Commissioner Robinson asked how Mr. Jezek's jail time ended. Mr. Jezek stated that he actually tried to escape jail and was also doing drugs for a while. Commissioner Peterson asked what has changed. Mr. Jezek stated that he sat in prison for six years and got out a year and a half ago. Mr. Arellano stated that Mr. Jezek took over a position in January and has been excellent. He has been up front about his life, his changes, and Mr. Arellano stated that he is glad to see someone who has taken a hold of his life. Commissioner Baker asked what Mr. Jezek has done to stop the drugs, and where he has gotten the help. Mr. Jezek stated that he took courses in anger management, AA, and NA. He stated that he likes being a leader and helping people. He stated that he does not participate in these groups now because he has had no issues in the past year and a half since he has been out of prison. He stated that he does not do drugs now because he does not like the way they make him feel. He stated that it took him three years in prison to realize this and after that he tried to get out. He stated that he loves what he does*

now and is trying to start a business. He limits his work now and what he tells his customers though because he is not yet licensed. Commissioner Fraker asked what services Mr. Jezek has been doing. Mr. Jezek stated that he has just been doing general pest control.

**MOTION:** To approve by Commissioner Baker.  
Seconded by Commissioner Hartley.

**VOTE:** 6-0 Motion carried.

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

*Mr. Tanner appeared.*

*Mr. Tanner stated that he got off probation on June 5 and has had no problems since then and has been staying clean. He is not currently employed but wants to be employed. Commissioner Baker asked if Mr. Tanner is still associating with the same individuals. Mr. Tanner stated that he is not. Commissioner Baker asked what Mr. Tanner has been doing the past year. Mr. Tanner stated that he is not doing much besides staying at the house and trying to straighten out his life. Commissioner Peterson asked Mr. Tanner if he is studying for the test. Mr. Tanner stated that he would like some help. Commissioner Baker asked Mr. Tanner if he has talked to employers. Mr. Tanner stated that he has, but they are waiting to hire until he gets his license. Commissioner Baker asked why Mr. Tanner wants to go into the industry. Mr. Tanner stated that he has been doing pest control for a while and used to work for SOS and Phoenix Pest before. Commissioner Peterson asked if Mr. Tanner does drugs or drinks. Mr. Tanner stated that he does not.*

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

**VOTE:** 6-0 Motion carried.

**D. Bell, Billy Dewayne**

*Tabled.*

**E. Dunn, Oby Allen**

*Mr. Dunn appeared.*

*Mr. Dunn stated that he has served 10-11 months of a five-year probation. Commissioner Peterson asked what has changed so that this won't happen again.*

*Mr. Dunn stated that he has learned that there are consequences to every action and he is tired of people who don't take responsibility for their actions. He feels that, at 42 years old now, he is more mature. Commissioner Peterson noted that the theft was an economic decision made by Mr. Dunn, and that he had to support his children. He asked what has changed economically. Mr. Dunn stated that he now believes that who he is is far more important than what he is, and that how much money he makes is irrelevant. He stated that he is getting married in October to a wonderful woman who also has a good job. He stated that at the time of the felony, he was totally unemployed and was waiting for the Commission to act on a license application. He stated that he was not intent on stealing the money, but thought he would earn it later. He stated that his probation officer told him that if he keeps current on his restitution and fees, he could be done with probation in a year. Commissioner Peterson noted that Mr. Dunn is currently on a work furlough situation. Mr. Dunn stated that he hasn't missed a day, and has worked from 6 a.m. to 6 p.m. every day. He stated that he has 20 years of experience in the pest control industry and has never had a complaint filed against him with the Commission. This felony happened three years ago and was a one time deal. Commissioner Baker stated that he thinks it is too soon after the felony, especially as a QP.*

**MOTION:** *To deny renewal of applicator license based on lack of good moral character and the felony conviction, by Commissioner Baker.  
Seconded by Commissioner Leavitt.*

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

**F. Baum, Edward Charles**

*Mr. Baum appeared.*

*Mr. Baum stated that he has not drunk since 1988 and has been with AA.*

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

**VOTE:** 6-0 *Motion carried.*

**XVII. Commission Updates and Reports**

**A. None**

## **B. Possible Future Law Changes**

*Keith Birkemeyer, from Probest Pest Management, LLC, appeared.  
Kevin Etheridge, from Contractors Termite & Pest Control, Inc., appeared.*

*Lisa Gervase stated that there have been three very good stakeholder meetings in the past few months, and a draft bill was reviewed two days ago. There are still some changes to be made.*

*There was discussion about the definition of “pretreatment” versus “before or during construction treatment” and consensus to have a new definition in the laws for pretreatment.*

*There was also some consensus regarding 1) not lengthening the terms of the Commissioners, 2) making the owner/occupier exemption only apply to residential property, and 3) maintaining the ninety-day window for newly employed but unlicensed applicators and even extending that window (from 30 days) to those already-licensed applicators who are broadening their license.  
Regarding CEUs, the hope is to have QP level courses in the rules.*

*There was also some clarification regarding duties of the QPs visa viz managing the business. There was discussion about out of state QPs.*

## **C. Possible Future Rule Changes**

*Lisa Gervase stated that so far there is only a really rough draft of the rules. Once a decent draft is available, stakeholder meetings will begin.*

## **D. Complaint Status Log**

*Mike Francis stated that the log is getting better with the passing of each meeting.*

## **E. Computer Based Testing “CBT” Status and Statistics**

*There was some discussion about the passing rate for the Applicator core exam.*

## **F. Expenditure Report - separate handout or verbal report**

*Not available.*

## **G. Case Status Report - separate handout**

*Lisa Gervase stated that there are 78 current, active cases and there are still 115*

old cases.

**H. Gloria Kilian, dba Kilian's Termite and Pest Control, Co., vs. Structural Pest Control Commission, Case No. C20053438**

*Lisa Gervase stated that the record was filed on July 29, 2005. On September 6, 2005, Ms. Kilian's stay of the Commission's denial will end. That morning, Lisa Burns will have a status conference call to see if the stay will be continued. To date, Ms. Kilian has not completed all of the application requirements for a QP license application.*

**XVIII. Approval of Minutes**

**A. July 8, 2005 (regular session) Minutes**

**MOTION:** *To approve the July 8, 2005 Minutes by Commissioner Hartley. Seconded by Commissioner Baker.*

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

**B. Continuing Education Minutes**

**MOTION:** *To approve the Continuing Education Minutes by Commissioner Hartley. Seconded by Commissioner Fraker.*

**VOTE:** *6-0 Motion carried.*

**XIX. Scheduling of future meetings/agenda items**

**Current Proposed dates**

**September 9, 2005**

**October 14, 2005: In TUCSON**

**Pima County Board of Supervisors Auditorium**

**130 W. Congress, 1<sup>st</sup> Floor, Tucson, AZ**

**November 10, 2005: This is a THURSDAY**

**December 9, 2005**

**January 13, 2006**

**February 10, 2006**

**March 10, 2006**

**XX. Adjournment - 1:45 p.m.**

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

**VOTE:** 6-0 *Motion carried.*