



STATE OF ARIZONA

Structural Pest Control Commission

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Janet Napolitano
Governor

Lisa Gervase
Executive Director

COMMISSION MEETING FRIDAY, January 12, 2007, 9:00 A.M. MINUTES

I. Call to order (9:02 a.m.), Commissioner roll call

Commissioners Present: Bert Putterman, Dan DeVere, Debra Runbeck,
Paul Baker, Dave Burns, Dave O'Neal

Commissioners Absent: Patrick Black

Staff Present: Vince Craig, Lisa Gervase, Mike Francis,
Robert Tolton, Magdalena Vazquez, Lorena
Villela, Melissa Cornelius, Assistant Attorney
General

II. Call to the public

Attorney Scott Richardson appeared and stated he would like the Commission's input prior to complaints going to settlement conferences. Mr. Richardson suggested that prior to conducting a settlement conference that complaints go before the Commission.

Fred Willey from Arizona Pest Professional Organization (AzPPO) said he wanted to put out an invitation to members of the industry to join the organization. He said Ms. Gervase recently attended one of their meetings and thanked Ms. Gervase for her involvement. Mr. Willey said they have put together a committee to help the SPCC work on the next rules package and asked that all those interested join the organization and get involved.

III. Communication with Commissioners

Commissioner Burns indicated he received communication from Jack McClure this week about CEUs.

IV. Summary of Current Commission Events, Activities, Notices

Ms. Gervase stated this has been the best renewal year yet. There are only 66 Businesses and 69 Qualifying Parties that have not yet renewed their licenses. The licenses expired on December 31, 2006. Ms. Gervase stated the names of these licensees will be posted on the website. Ms. Gervase stated the Commission has sent notices and made phone calls to notify the BLs and QPs that their licenses are now expired. She encouraged people to renew. Over 75 percent of Businesses and QPs have renewed online.

Ms. Gervase reminded people to check the website for dates of initial license and continuing education courses.

Commissioner Putterman questioned when the Commission officers changed, and was informed that it is always done at the December meeting.

V. Consent Agenda

A. Applications for New Business License Activating Qualifying Party License

Commissioner Baker stated that he would like the issue of experience self-verification to be on a future agenda. Commissioner Runbeck directed staff to do so.

Business

Qualifying Party

1. Progressive Pest Management LLC.

David E. Poplin (“B1”)

Pulled by Commissioner Putterman. David Poplin and Jason DeRusha appeared before the Commission. Commissioner Putterman questioned that Mr. Delmar James Bar is not involved in the organization, but is an active QP for Moon Mount Pest Control but, is employed by Sun Lakes Pest Control. Commissioner Putterman questioned whether it was a violation in terms of being actively employed by one person and fronting for another. Ms. Gervase stated it was not a violation.

Mr. Poplin stated his experience with pest control is that he has been in the industry for 15 years and has been licensed in California and Nevada and has been actively involved in pest control treatments. Mr. Poplin indicated he will

not be actively involved as an employee but will be regularly involved with all of the QP duties.

Mr. DeRusha stated he has limited experience however, he has had some exposure to the industry by way of family and intends on obtaining his QP license in the future. The company is a sole operation and Mr. DeRusha is the owner. Mr. DeRusha stated he believes he will obtain his QP in about a year and a half to two years. Mr. DeRusha is currently licensed.

Commissioner Burns asked Mr. Poplin if he had other employment. Mr. Poplin stated he is currently in the process of obtaining employment with another company. Mr. Poplin stated he would be able to fulfill the duties of QP shall an emergency arise as his potential employer is fully aware of his QP duties.

MOTION: *To approve the application for new business license in the “B1” category by Commissioner DeVere.
Seconded by Commissioner O’Neal*

VOTE: *5 – 1 Motion carried (Commissioner Putterman opposed).*

2. Kleenland, Inc.

**Dan R. Smith (“B3”, “B5”
And “B9”)**

Pulled by Commissioner Putterman. Dan R. Smith was present. Mr. Smith stated he is currently employed with the City of Phoenix and would be able to leave work shall an emergency arise. He stated the City of Phoenix would allow him to leave work to take care of his QP duties. Mr. Smith stated he is currently working from 2 a.m. to 10 a.m. Commissioner Burns asked who Mr. Villa was, because that is the person listed as the BL, and also asked how many employees the company had. Mr. Smith stated there were lots of employees, but there were only two that actually sprayed, Victor Soto and Victor’s brother, Rene Hernandez Soto. Mr. Smith added that he reports to Victor who is the lead and Victor’s wife who is the owner. Mr. Smith stated that the owners are currently in the process of changing the company to the new name.

Ms. Gervase stated that the Commissioner’s questions lead to a question from staff regarding the named applicators. Staff checked the database and found that the applicators named Victor Soto and Rene Hernandez Soto held licenses, which had expired in May of 2006. Commissioner Burns asked if there was an existing company that Kleenland is changing it’s name from. Mr. Smith answered yes and stated the former name of the company was Art

Landscaping. Commissioner Burns asked if Victor and Rene were employees of that company. Mr. Tolton stated that both Victor and Rene headed Art Landscaping and that as of December 31, 2006 they allowed their Business license to expire and added that both applicators allowed their applicator licenses to expire May 31, 2006. Mr. Smith stated he was not aware that they allowed their licenses to expire. Commissioner Burns expressed his concern with regard to Mr. Smith's actual involvement as the QP and felt that based on the history it was Victor Soto who was calling all the shots. Commissioner Putterman stated that he felt that based on his personal experience, he does not expect every QP to know exactly what each of his applicators is doing at all times. Mr. Smith stated he is not actively in the business making all the calls and shots regarding the business however, he does have input in overseeing what they spray, when they spray and what equipment they are using. Mr. Smith said that there was no spraying being done during the time the Soto's licenses were expired. Mr. Smith stated he had no reason to check their licenses because of the fact that no spraying was being done.

MOTION: *To deny the application for new business license in the "B3", "B5" and "B9" categories by Commissioner Burns.
Seconded by Commissioner O'Neal.*

VOTE: *3 – 3 Motion failed. (Roll call vote:
Commissioner O'Neal – Yes, Commissioner Burns – Yes, Commissioner Baker- Yes, Commissioner Runbeck- No, Commissioner DeVere – No, Commissioner Putterman – No).*

SECOND MOTION: *To approve the application for new business license in the "B3", "B5" and "B9" categories by Commissioner Putterman.
Seconded by Commissioner DeVere.*

VOTE: *4 – 2 Motion carried (Commissioners Burns and O'Neal opposed).*

3. American Building Maintenance Joseph R. Wright ("B3")

**4. Laughlin Ranch Golf Course, Christopher K. Sachen
LLC. ("B3" and "B5")**

5. Pine Meadows C.C., LLC. David A. Snyder ("B3" and "B5")

Pulled by Commissioner Putterman. David Snyder and Ron Williams appeared before the Commission. Commissioner Putterman stated he

noticed that Mr. Snyder had an address in Scottsdale and the business was conducted in a golf course in Overgaard, Arizona. Mr. Snyder stated he had residences in both Scottsdale and Overgaard and added that he works in Overgaard full time, from April to October and works part-time during the winter while maintaining his employment with the company throughout the year.

MOTION: *To approve the application for new business license in the “B3” and “B5” categories by Commissioner Putterman.
Seconded by Commissioner DeVere.*

VOTE: *6 – 0 Motion carried.*

6. Got Bugs? Exterminating **James A. Murphy (“B1”)**

7. Suncoast Pest Control, LLC. **Teresa L. Skiba (“B1”)**

Pulled by Commissioner Burns. Daniel Wilbur appeared before the Commission. Teresa Skiba was not present. Daniel Wilbur stated Ms. Skiba will be the QP for his business, and stated Ms. Skiba currently owns another pest control company. Commissioner Putterman made a Motion to deny the application due to her lack of presence at the Commission meeting to answer questions. The Motion died for lack of a Second. The Commission pended this matter to allow Ms. Skiba to arrive or to obtain legal advice in order to make a decision. Ms. Skiba arrived and said she will be in contact with Mr. Wilbur via cell phone to make sure that the office is operating within the laws and regulations. Ms. Skiba said she will be available at any time. Ms. Skiba stated she will only be the QP for Suncoast however, another company for which she is not a QP currently employs her. Ms. Skiba said that her other employment will not preclude her from conducting her responsibilities as a QP.

MOTION: *To approve the application for new business license in the “B1” category by Commissioner O’Neal.
Seconded by Commissioner DeVere.*

VOTE: *5 – 1 Motion carried (Commissioner Putterman opposed).*

8. Palmer Pest Control **Jerry W. Palmer (“B1”)**

Pulled by Commissioner Putterman. Jerry Palmer and Mary Palmer

appeared before the Commission. Mr. Palmer stated he will be actively involved in the business and will maintain the QP. Mrs. Palmer will obtain her QP at a later date. Mr. Palmer will be the sole operator.

MOTION: *To approve the application for new business license in the “B1” category by Commissioner Putterman.
Seconded by Commissioner DeVere.*

VOTE: *6 – 0 Motion carried*

9. Spectrum Pest Control, LLC. Shane D. Pannell (“B1”)

Pulled by Commissioner Putterman. Shane Pannell and Mike Wrigley appeared before the Commission. Mr. Pannell stated he will be not be involved in day-to-day operations but, he will be involved in exterminating and sales on a part-time basis. Mr. Pannell stated that he is currently self-employed doing day trading and will be available at any time. Mr. Wrigley is currently a licensed applicator and will be the only applicator for the company, and is seeking his QP.

MOTION: *To approve the application for new business license in the “B1” category by Commissioner Baker.
Seconded by Commissioner O’Neal.*

VOTE: *6 - 0 Motion carried.*

10. Custom Turf Applications Donald A. Pleger, Sr. (“B3”, and “B5”)

Pulled by Commissioner Burns. Donald A. Pleger and Robert Fulton appeared before the Commission. Mr. Pleger stated he will oversee all of the applications that Mr. Fulton does. Mr. Pleger added that he has known Mr. Fulton for many years and they both have had over 35 years of experience working in the golf course industry. Mr. Pleger is currently a full-time employee with another company; however, that company is aware that Mr. Pleger was attending the Commission meeting. Mr. Pleger said that he and Mr. Fulton will be working together on any herbicide applications.

MOTION: *To approve the application for new business license in the “B3” and “B5” categories by Commissioner DeVere.
Seconded by Commissioner Putterman*

VOTE: 6 - 0 Motion carried.

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

Qualifying Party

Business

1. Edward Hageman

**Karsten Pest Technologies, LLC.
("B9")**

Pulled by Commissioner Putterman. Edward Hageman was not present. Commissioner Putterman asked staff what category the company applying for and what categories the company was currently active in. Mr. Tolton said Mr. Hageman was currently active in all categories as noted on the QP's licensing page, except of aquatics. Commissioner Putterman requested that staff provide more information on the cover sheet about the categories the business is operating in rather than having to review the licensing pages.

MOTION: *To approve the application to activate Qualifying Party for Existing Business License in the "B9" category by Commissioner Putterman.
Seconded by Commissioner O'Neal.*

VOTE: 6 – 0 Motion carried.

2. John F. Kennedy

**City of Prescott: Antelope Hills GC.
("B3" and "B5")**

3. Mickey Milen

Beebe's, LLC. ("B2" and "B8")

Pulled by Commissioner Burns. Mickey Millen and Daniel Beebe appeared before the Commission. Commissioner Burns asked what the association or the disassociation between the companies was. Mr. Millen stated Mickey's Termite and Pest Control was sold to Beebe's as of January 2, 2007. Mr. Tolton stated that the Commission had just received a letter from Mr. Millen informing the Commission that Mr. Millen was no longer associated with Mickey's Termite and Pest Control.

MOTION: *To approve the application to activate the Qualifying Party for Existing Business license in the "B2" and "B8" categories by Commissioner Burns.
Seconded by Commissioner O'Neal.*

VOTE: 6 – 0

4. Nancy J. Wild

JMH Weed Control (“B5”)

Pulled by Commissioner Putterman. He questioned what category the business was operating in. The QP holds a license in categories B3 and B5, and is only activating in B5. Nancy J. Wild was not present. Julia Hultman was present on behalf of Ms. Wild. Ms. Hultman is the BL and hold a QP in B3, and stated Ms. Wild was not available due to a turf conference she was attending. Ms. Hultman stated she is bringing Ms. Wild on board to train her in the new category (B5) and to serve as her mentor.

MOTION: *To approve the application to activate the Qualifying Party for Existing Business license in the “B5”category by Commissioner Putterman. Seconded by Commissioner DeVere.*

VOTE: *6 – 0 Motion carried.*

5. Foree R. Cooley

Nu-Treat Pest Services, LLC. (“B1”)

6. John W. Sammons

City of Tempe (“B5”)

7. Michael T. Connors

American Golf Corporation (“B3”)

Pulled by Commissioner Putterman. Mr. Connors was not present. Commissioners Burns and Putterman both indicated they would like to speak to Mr. Connors for an opportunity to have their questions answered. Commissioner Burns expressed his concern with not knowing how Mr. Connors is able to serve as QP for multiple companies. Commissioner DeVere said he believes this is a management company for the golf courses. There was a Motion by Commissioner Putterman and Second by Commissioner DeVere to approve however, due to discussion the motion and second were withdrawn.

Application Tabled

C. Applications for Qualifying Party License

1. Thomas J. Siegfied, Jr. “B1”

2. Tony H. Macis “B3”

3. Bryan L. Franklin “B1”

4. Emily C. Roxby “B1”

5. Daniel R. Wilbur "B1"

6. Douglas D. Dykstra "B3" and "B8"

Pulled by Commissioner Putterman. Mr. Dykstra appeared before the Commission. Mr. Dykstra stated he was a superintendent in West Virginia and was licensed in that state.

MOTION: *To approve the application for a Qualifying Party license in the "B3" and "B5" categories by Commissioner DeVere.
Seconded by Commissioner Putterman.*

VOTE: *6 – 0 Motion carried*

7. Jason D. Fletcher "B2" and "B8"

8. Frank R. Woodward "B1", "B2" and "B8"

Pulled by Commissioner Burns. Mr. Woodward was present before the Commission. Commissioner Burns asked how he obtained all of his experience without an applicator license for the required experience of 3000 hours. Mr. Woodward said he went out with the QP to residences and discussed issues with the customers. He did not apply pesticides, he only made identifications alongside the QP. Mr. Woodward added that he is applying for the QP license because the owner, whom happens to be his uncle, is contemplating retirement. Mr. Woodward also said that with regard to the B2 category he has acquired experience by conducting post construction treatments directly within the immediate supervision of the supervisor. Mr. Woodward plans to oversee the applications and stated that including the QP there are four employees total. Mr. Woodward stated he quit working for two days every ninety days to be able to meet the legal requirements while gaining experience.

MOTION: *To approve the application for a Qualifying Party license in the "B1", "B2" and "B8" categories by Commissioner Burns.
Seconded by Commissioner O'Neal.*

VOTE: *6 – 0 Motion carried*

9. John P. Phillips "B3"

Pulled by Commissioner Putterman. Mr. Phillips appeared before the Commission. Commissioner Putterman asked if he was only applying for the B3 category and if he was conducting operations in other areas, which there was an additional Qualifying Party. Mr. Gorsuch said he was only applying for B3 and did have an additional QP.

MOTION: *To approve the application for a Qualifying Party license in the "B3" category by Commissioner Putterman.
Seconded by Commissioner DeVere.*

VOTE: *6 – 0 Motion carried*

10. Charles T. Gorsuch "B9"

Pulled by Commissioner DeVere. Mr. Gorsuch was present. Commissioner DeVere asked staff if Mr. Gorsuch's experience in performing pest management on his own property qualified as experience to obtain a B9 license. Ms. Gervase stated that it did qualify as experience when obtaining a license.

MOTION: *To approve the application for a Qualifying Party in the "B9" category by Commissioner Baker.
Seconded by Commissioner DeVere.*

VOTE: *6 – 0 Motion carried.*

11. Colt J. Ferguson "B1"

12. John F. Saxton, Jr. "B1", "B2" and "B8"

13. Larry G. Winter "B3"

14. Edgar E. Izaguirre "B1"

15. William R. Babcock "B3"

16. Lewis W. Bence, III "B3"

D. Business License Name Change Request

None

End of Consent Agenda

MOTION: *To accept the Consent Agenda with the exception of the items pulled for discussion (A1, A2, A5, A7, A8, A9, A10, B1, B3, B4, B7, C6, C8, C9 and C10) by Commissioner Putterman.
Seconded by Commissioner DeVere.*

VOTE: *6 – 0 Motion carried.*

(Break from 10:30 A.M. to 10:43 A.M.)

VI. Applications not on Consent Agenda

A. Request for Temporary Qualifying Party License and Renewals

1. John T. Royalty “B3” and “B5”

Mr. Royalty was present. Commissioner Putterman asked if Mr. Royalty intends on taking the test because he has obtained a Temporary Qualifying Party License twice before. Mr. Royalty stated he is in the process of obtaining his license and has been delayed only because his former employer has failed to verify his practical experience. Mr. Tolton confirmed Mr. Royalty’s statement.

MOTION: *To issue the temporary QP renewal by Commissioner O’Neal.
Seconded by Commissioner Baker.*

VOTE: *5 – 1 Motion carried (Commissioner Burns opposed).*

B. Application to activate Qualifying Party for New or Existing Business License.

1. National Pest Solutions Steven H. Glotzer “B1” and “B8”

Mr. Glotzer appeared before the Commission accompanied by Larry Davidson. Mr. Davidson presented arguments as to why the name National Pest Solutions is not confusing with an existing company name, National Environmental Solutions, and that gave examples where there may be precedence for similar names for pest management companies in Arizona.

Mr. Gallifant, Owner of National Environmental Solutions, appeared before the Commission to state his objection to the name National Pest Solutions.

Commissioner Putterman stated his concern about the similar name and said he has always voted against each and every one of the prior similar name requests. Commissioner Putterman asked Mr. Davidson to pick another name.

Commissioner Burns reminded the Commission that it denied the name National Pest Control at the September 2006 meeting, because of the similarity with Mr. Gallifant's company name. Commissioner Burns said the similarity in name can cause a consumer to be misled.

Commissioner Runbeck said that as a consumer she felt she would not be misled and added that the Commission has a letter from Mr. Gallifant asking the Commission to deny everything that has the word National in it. Commissioner Runbeck said that would be impractical and unreasonable to do, since the word "national" is rather generic, like "Arizona" or "American".

Mr. Davison said he was prepared to propose another name; however, he did not want to bring it up until it was necessary to do so. Mr. Davidson asked not to be tabled because doing so would cause a significant loss to his company. Mr. Davidson asked if the Commission would consider the other name.

Ms. Cornelius stated that another proposed name was not agendaized today, and in order to agendaize a special meeting to consider another name, the Commission would have to post a notice at least 24 hours before that meeting. Commissioner's O'Neal and Runbeck said they would make themselves available for another meeting before the February regular meeting.

Commissioner Putterman asked Mr. Glotzer about his level of involvement with the company and questioned Mr. Davidson's ability to be actively involved because of his nationwide businesses. Mr. Glotzer stated that his involvement would end when Mr. Davidson obtains his QP license. Mr. Davidson said he already had a full management staff in charge of his other locations, lives in Arizona, and is 100% involved.

The matter was tabled so that Mr. Davidson could complete new paperwork with another name for Commission consideration. Commissioners requested that staff contact them the following week to see about scheduling a special meeting.

2. Gary's Pest Control Solutions, Inc. Shiloh K. Tichi "B1"

Gary Matley and Shiloh Tichi appeared before the Commission. Mr. Matley said he was formerly employed by Adams Exterminating and is now trying to start his own business. Commissioners Putterman and Runbeck inquired about this company assuming any of Adams' accounts. Mr. Matley stated that his company was not assuming any of Adam's accounts. Commissioner Runbeck asked staff

if Ms. Tichi was allowed to be QP for another business because of her involvement with Adams Exterminating. Ms. Gervase stated that the prior complaint and disciplinary action was against Adams Exterminating as the Business Licensee in which Ms. Tichi held fifty percent ownership, but not against Ms. Tichi's QP license, so as long as Gary's doesn't assume any of Adam's accounts, Ms. Tichi can be the QP. Commissioner Putterman expressed concern about whether there was an "arms-length" relationship between this company and Adams, and encouraged Mr. Matley to obtain his own QP license and have nothing to do with Adams' business.

MOTION: *To approve the application to activate Qualifying Party for New Business License by Commissioner Putterman.
Seconded by Commissioner O'Neal.*

VOTE: *5 – 1 Motion carried (Commissioner Burns opposed).*

C. Application for Qualifying Party License

1. Elizandro Escobar-Bermudez "B2" and "B8"

Mr. Bermudez appeared before the Commission and presented a letter of recommendation from his current employer. Mr. Bermudez to the allegations made by his previous employer. Commissioner Baker asked if Mr. Bermudez had any proof that he had made restitution to his former employer. Mr. Bermudez said he did not have the proof readily available as the paperwork is stored in boxes in his home; however, he had a Promissory note from his former employer stating he is making payments. The Commission felt that if Mr. Bermudez's former employer felt a crime was committed she could have called the police but, chose not to. Mr. Bermudez has not been charged or convicted of a crime.

MOTION: *To approve the application for a Qualifying Party License in the "B2" and "B8" categories by Commissioner Burns.
Seconded by Commissioner Putterman.*

VOTE: *6 – 0 Motion carried.*

2. Ryan C. Peterson "B1", "B2" and "B8"

Mr. Peterson was present. Mr. Tolton said it took Commission staff over eight months to obtain information from Mr. Peterson's former employer because the former employer was either busy or would not return any calls. Mr. Tolton said the information he received was very limited.

MOTION: *To approve the application for a Qualifying Party License in the “B1”, “B2” and “B8” categories by Commissioner Putterman. Seconded by Commissioner Baker.*

VOTE: *6 – 0 Motion carried.*

D. Business License Name Change Requests

None

VII. Complaints

A. Kevin Vescio (Applicator) - Case No. 2006-045

MOTION: *To suspend Kevin Vescio’s applicator license No. 940491 for non-payment of renewal fees and to dismiss the complaint without prejudice [license automatically revoked in one year] by Commissioner Baker. Seconded by Commissioner DeVere.*

VOTE: *6 – 0 Motion carried.*

B. Robert Fulton (App) – Case No. 2006-028

Mr. Fulton appeared before the Commission. Mr. Fulton stated there were no current issues or concerns from the City of Tucson and answered Commissioners’ questions.

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 Putterman. Seconded by Commissioner DeVere.*

VOTE: *6 – 0 Motion carried*

C. Bob’s Bug Bizz (BL)/ Robert Deutsch (QP) – Case No. 2006-022

Mr. Deutsch was present. There was confusion about whether Mr. Deutsch submitted the TARFs. He did pay the TARF fees, and it appears that the CompuTAR computer disk that he submitted may not have been readable. Staff will work with Mr. Deutsch to obtain the TARFs for the database.

Rather than make a decision before the matter is finalized, the Commission tabled this case and will consider it after the TARFs have been submitted.

D. Frontline Exterminating, LLC. - (BL)/Darren Kirkham (QP) – Case No. 2006-012

Commissioner Putterman said the homeowner's complaint was that their plants were dead or dying, but that was not substantiated. He felt that it was a de minimis violation for having an employee not licensed within the ninety days, and that the Commission should issue an Advisory Notice. Commissioner Burns said that there was no violation found with regard to the application and Frontline Exterminating stepped up and went above and beyond to pay the customer. Commissioner Baker made a motion to modify the proposed resolution to administrative warnings only to the BL and QP, and not impose additional C.E. The motion failed due to the lack of a second.

MOTION: *To send an advisory notice to the BL and the QP stating that any future violations of employees making applications beyond the ninety days to be licensed may cause further action, by Commissioner Putterman.
Seconded by Commissioner O'Neal*

VOTE: *5 – 1 Motion carried (Commissioner Runbeck opposed).*

E. Kent Griffith (APP) Case No. 2006-025

Mr. Griffith was not present. Ms. Gervase presented a letter from Mr. Griffith's attorney to the Commission. The letter requested that the fine be suspended for a period of several months and allow Mr. Griffith to be on a payment plan. Commissioner Putterman asked how this situation differs from unlicensed activity. Mr. Craig said Mr. Griffith's license is expired, but currently, he still can renew it. Ms. Gervase confirmed that currently under the law anyone who has held a license is still considered licensed unless the license is revoked; however, this will be changed under the new rule changes. Therefore, they must be treated under the disciplinary statutes for a licensee, rather than the statute for an unlicensed person. Commissioner Burns said he has serious concerns that this individual willfully presented himself as a licensed company, that this work would have been done by a properly licensed and insured company had Mr. Griffith not lied about his license status, and that the civil penalty should be more like \$46,000.00. Commissioner Putterman agreed with Commissioner Burns and felt that the civil penalty should be a larger amount. Commissioner Putterman said this incident involves fraudulent activity against the State and suggested that it should be forwarded to the AG's

office. Commissioner Runbeck said it was the pleasure of the Commission to forward it to the AG's office to consider what, if any, action is warranted. Mr. Craig said staff gave Mr. Griffith the options of agreeing to a revocation or a higher fine and he would not agree to either. Commissioner Burns said he felt the \$1,350.00 fine was sufficient if he turned in his license. Ms. Cornelius informed the Commission that it had other options, such as requesting that the licensee submit to a suspension.

MOTION: *To reject the proposed resolution and to offer Mr. Griffith a Consent Agreement whereby he surrenders his applicator license and pays a \$1,350.00 civil penalty, and if no agreement is reached to send the matter to hearing, by Commissioner Baker. Seconded by Commissioner Putterman.*

VOTE: *3 – 2 Motion carried (Commissioners Putterman and Burns opposed).*

(Commissioner O'Neal left the meeting 12:00 P.M.)

F. Ramon Spude (APP) Case No. 2006-033

Mr. Spude was present and said he is currently employed by a company not in the pest control industry. Mr. Spude said he intends on renewing his applicator license.

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 Putterman. Seconded by Commissioner Burns.*

VOTE: *4 - 1 Motion carried (Commissioner Baker abstained due to his absence from the room during the discussion.)*

G. University Termite and Pest Control, Inc. (BL)/Richard Rupkey, II (QP) Case No. 2005-069

Attorney Scott Richardson was present on behalf of University Termite and Pest Control and QP Richard Rupkey, II. Mr. Rupkey, Sr. and Mr. Rupkey, II also were present. Commissioner Putterman asked what the provision would be for monitoring compliance and reporting to the Commission. Mr. Craig said SPCC staff left this term open because they were interested in obtaining the Commissioners feedback on the issue. Mr. Craig said that SPCC staff feel it is in the best interest of the Business to adopt the proposed

resolution because it would help in communicating with the agency. Mr. Richardson said they had a meaningful discussion with Mr. Craig, Ms. Gervase and Mr. Francis to obtain a proposed resolution, but doesn't want to be forced to implement the business consultant's recommendation for a specified period of time. Mr. Richardson said they are willing to pay for the business consultant but, are not willing to do in a way that it was tied to a time period because the business could restructure, or technology or the law could change. Scott Richardson said that he didn't want to commit to implementing the consultant's changes for any specific amount of time. But, if there was a future complaint involving lack of cooperation with the Commission and communication, it would be a severe aggravating factor in that complaint if the business licensee didn't keep the consultant's recommendations implemented. Commissioner Putterman said he would like the consultant's written report to go to the Commissioners for review. Ms. Cornelius said that the Commission could conduct periodic compliance reviews. Scott Richardson said that if any recommendation was not followed, the SPCC or the Respondent can address the Commission to see if it should be excused. Ms. Cornelius stated that after fifteen months, if they have complied, then the probation ends. Mr. Richardson stated that would be no problem.

Commissioner Burns congratulated Ms. Cornelius and SPCC staff on drafting the proposed resolution and added it was a good and workable approach. Commissioner Burns pointed out two issues he was concerned with: He wants regular updates to the Commission for the duration of the probation every other meeting, and wants the Commission to vote on approving the consultant. He asked whether the Commission would make a call on the recommendations. Ms. Gervase said not the way it's currently proposed - that the Commissioners would not make a judgment call on the recommendation, only whether the licensees complied with the recommendations.

Ms. Cornelius said that periodic compliance reviews would be ideal because it would help both parties in that the Commission is reassured things are going well and it also gives the Business Licensee the opportunity to express what is working and what is not.

Commissioner Burns said that he would like to see a regular update to give the Commission a quick synopsis of what progress the business is making.

Mr. Richardson said he and his client agreed that if a compliance review was done every 60 days, they would be happy to comply.

Commissioner Burns said there needs to be a timeframe on the overall process and that the Business needs an ending point. Ms. Gervase said that if after fifteen months, they have complied, then it ends.

Commissioners Burns and Putterman said they would like to see an outline as to whom Mr. Richardson would like to be considered as the consultant. Mr. Richardson said he would be happy to submit that to staff.

Ms. Gervase said that it needs to be given to staff in two weeks so that they may include it in the Commission materials for the February meeting.

Commissioner Runbeck confirmed that the probation was intended to last fifteen months after the agreement goes into effect.

Commissioner Burns asked if section B. regarding the six day suspension is really necessary because he feels that the service technicians will be penalized. Ms. Gervase said that staff specifically structured the days of the suspension at the preference of the company and added that splitting of days is not typical but, the company chose the days and can make accommodations to the service technicians so that they are not disadvantaged.

MOTION: *To offer a modification to the proposed resolution for a status update every sixty days, and for the BL to submit to the Commissioners a list of three names of consultants in order in which the BL has a preference, for the Commission to chose from and put the case back on the agenda to review in February of 2007, and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to send the case to the office of Administrative Hearings, by Commissioner Runbeck.
Seconded by Commissioner Putterman.*

VOTE: *5 – 0 Motion carried.*

H. Truly Nolen (BL)/Robert Hartley (QP)/Daryl Natter (APP) – Case No. 2006-020

Mr. Richardson appeared on behalf of the Business, QP and Applicator. Mr. Richardson said this is a case where they fundamentally could not agree on a settlement. Commissioner Burns said that with regard to training, Truly Nolen does a good job in training their employees and they are consistent when it comes to labeling and handling of materials. Commissioner Burns said that the company did what they could on their part.

Mr. Craig said that staff did not have an issue with training, but that the issue was with supervision because there was no documentation and that the same applicator was before the Commission two months ago for the same violation. Mr. Craig also said that the only documentation staff received was a letter from the QP that there was no documentation of supervision, and a supervisor's letter stating that the applicator was not getting it. Mr. Craig said the QP knew the applicator was not getting it and did not keep an eye on the application; therefore, the applicator ended up committing a misapplication. These two letters were received after the settlement conference was unsuccessful. Mr. Richardson said that the problem is that training

and supervision takes place daily, both informally and formally, and the formal is easier to document.

Commissioner Putterman said that by the time the letters were submitted the applicator was already gone. Mr. Craig said that after this second case the letters were submitted, but that the supervision issue was dropped in the first case because the Commission ordered it dropped. Ms. Gervase said that the violation in this case happened in May of 2006, and the supervisor's letter confirms that he knew in April and early May 2006, that Mr. Natter was not getting it.

Mr. Richardson said they argued that there was sufficient supervision and that is the reason a resolution could not be reached.

MOTION:

*To approve the proposed resolution regarding Mr. Natter, and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter to send the case to the Office of Administrative Hearings, and to send an Advisory Notice to the BL and QP by Commissioner Putterman.
Seconded by Commissioner Burns.*

VOTE:

4 – 1 Motion carried (Commissioner Runbeck opposed).

VIII. Requests for Review or Rehearing or 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.

None

(Break from 12:49 P.M. to 1:00 P.M.)

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

A. Eric Gordon Lund (APP/QP) and Norstar Pest Control, LLC. (BL) Case No. 2005-028

Mr. Lund was present. Ms. Gervase stated that Mr. Lund is asking to reinstate his applicator, QP, and business licenses to expired status so that they do not become revoked and to consider issuing the renewals of his business and QP licenses. Ms. Gervase said that with regard to the outstanding case concerning unlicensed activity the Commission will proceed with adjudicating the case. Commissioner Runbeck asked what factors the Commission would take into account in lifting the suspensions. Ms. Gervase said that Mr. Lund has paid his renewal fees, which was the only basis for the suspensions. Commissioner Runbeck asked what factors the Commission would take into consideration in not lifting the suspensions. Ms. Gervase said that Mr. Lund has not always maintained his licenses current and has committed unlicensed activity, but that he will have to again pass the license examinations in order to renew or obtain his licenses, and that the unlicensed activity will be addressed via the complaint process. Commissioner Putterman asked whether Mr. Lund has paid all prior civil penalties ordered. Mr. Lund said he has paid all civil penalties. Ms. Gervase confirmed that he did pay.

MOTION: *To reinstate Mr. Lund's BL, QP and Applicator licenses by Commissioner Putterman.
Seconded by Commissioner Baker.*

VOTE: *5 – 0 Motion carried.*

MOTION: *To approve the applications for renewal of Mr. Lund's BL, QP and Applicator licenses, by Commissioner Putterman.
Seconded by Commissioner Baker.*

VOTE: *4 – 1 Motion carried (Commissioner Burns opposed).*

XII. Recommended Decision and Orders.

None

XIII. Settlement Proposals

None

XIV. Consideration of Informal Settlement Conference proposed resolutions

None

XV. Reporting by Licensees on Probation

A. Larry M. Ward

Mr. Ward was present. Ms. Gervase said Mr. Ward has provided a letter from his probation officer stating he is complying with his terms of probation, AA attendance record and has received updates from Mr. Ward's employer on his good work.

XVI. Applicants with Criminal Convictions

A. Josh D. denDulk

Mr. denDulk was present. Fred Willey, from Invader Pest Control, Mr. denDulk's employer, was present. Mr. Willey said that Mr. denDulk has been a great employee and that the incident occurred when Mr. denDulk was 17 or 18 years old.

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

VOTE: *5 – 0 Motion carried.*

B. Kevin J. Cameron

Mr. Cameron was not present. Commissioner Baker said that he was very concerned that this case involved forgery.

MOTION: *To deny because of the felony conviction and for lack of moral character by Commissioner Baker.
Seconded by Commissioner Putterman.*

VOTE: *5 – 0 Motion carried.*

C. George J. Shiban

Mr. Shiban was present. Mr. Shiban said he has not had any further encounters with the law. His employer Tim Goeringer, QP and Owner of JHTG, Inc., dba Orkin Pest Control, appeared. Mr. Goeringer said that Mr. Shiban was honest from the start and said that he could not have a better employee.

MOTION: *To approve by Commissioner Putterman.
Seconded by Commissioner DeVere.*

VOTE: 5 - 0 Motion carried.

D. David M. Ramos

Mr. Ramos was present.

MOTION: *To approve by Commissioner Burns.
Seconded by Commissioner DeVere.*

VOTE: 5 – 0 Motion carried.

XVII. Commission Updates

A. Sol Design

Ms. Cornelius said that the AG’s office did not feel there was sufficient evidence to seek injunctive relief because normally the Superior Court only seeks injunctive relief on an emergency basis. Ms. Cornelius said that the rationale behind not seeking injunctive relief was the time that had past from the time the incident occurred to the time it was sent to the AG’s office.

B. Childcare Facility Pesticide Application Notification

Ms. Gervase said that staff has been working on a program to start enforcing the law change and that the education, inspection, and enforcement would be for 2,600 childcare facilities, not 1,600 as the SPCC initially was told. Ms. Gervase said that the Governor’s office and the Legislature were informed that the SPCC is burdened by this law change since it now does not have sufficient staff. Ms. Gervase said that an education letter to the childcare facilities has been drafted. Mr. Francis said the notification letters will be sent next week.

C. Designating bees as public nuisance

Ms. Gervase said that the Counties are asking the Department of Health Services to designate bees as a public nuisance so that the Counties have the right to hire a licensed company to take care of bee problems if a property owner does not take care of them. Ms. Gervase said staff has reviewed the proposed changes and have asked Steve Thoennes to help in guiding staff with regard to the language. Mr. Thoennes felt the language was good. Commissioner DeVere said he would like to make sure the language states only for uncontrolled bees. Ms. Gervase said that Mr. Thoennes suggested that the language say “Not currently and actively controlled.” Ms. Gervase suggested that the Commission support designating bees as a public nuisance. The Commission said they support the language as currently written, and

understand that licensed businesses, QPs and Applicators would be used for this bee control.

MOTION: *To support by Commissioner Baker.
Seconded by Commissioner Putterman.*

VOTE: *5 – 0 Motion carried.*

D. Complaint status log

Mr. Francis directed the Commissioners to the written report in their materials. There were no questions from Commissioners.

E. Computer Based Testing “CBT” Status and Statistics

Mr. Francis directed the Commissioners to the written report in their materials. There were no questions from the Commissioners.

F. Expenditure report

Commissioner Baker asked when the budget is submitted. Ms. Gervase said that the FY 08/09 budget was submitted last summer. Ms. Gervase said the Commission is supposed to have a hearing on February 12th and added that she is concerned with JLBC’s recommendations because they are so much lower than the requested appropriations, even though the agency is generating more money than what it is spending and has a healthy savings account. Ms. Gervase gave the example that she has asked for more full time employees but JLBC has only recommended approving more funds for one more I.T. staff member.

G. Case Status Report

Ms. Gervase said that this report was emailed to the Commissioners on January 4, 2007. Ms. Gervase said that the cases that were sent to the AG’s office for collections are down to 66 cases from the original 108 cases. The original 108 cases totaled \$225,000.00 in old Civil Penalties and the current outstanding Civil Penalties total is \$163,000.00.

Ms. Gervase highlighted a new civil lawsuit listed on the report. It is from a case from 1995, where a former licensee was imposed a \$4,000.00 civil penalty and the AG’s office has successfully obtained a judgment against this individual and the individual has now turned around and sued the SPCC to challenge the civil penalty.

XVIII. Approval of the minutes.

A. October 13, 2006 (regular session) Minutes

Commissioners did not feel they had a quorum to vote on approving the minutes. Ms. Cornelius said that as long as they all read the minutes they have a quorum to vote. Ms. Cornelius added that Commissioners are presumed to know what went on in previous minutes even if they did not attend.

MOTION: *To approve the October Minutes by Commissioner DeVere.
Seconded by Commissioner Baker.*

VOTE: *5 – 0 Motion carried.*

B. December 8, 2006 (regular session) Minutes

MOTION: *To approve the December (regular session) Minutes by Commissioner Baker.
Seconded by Commissioner Putterman.*

VOTE: *5 – 0 Motion carried.*

C. December 8, 2006 (executive session) Minutes

MOTION: *To approve the December (executive session) Minutes by Commissioner Baker.
Seconded by Commissioner Putterman.*

VOTE: *5 – 0 Motion carried*

D. Continuing Education Program Applicants

MOTION: *To accept the CE Program Applicants by Commissioner Putterman.
Seconded by Commissioner Baker.*

VOTE: *5 – 0 Motion carried.*

XIX. Future meetings

Per tentative schedule.

XX. Adjournment

MOTION:

*To Adjourn by Commissioner DeVere.
Seconded by Commissioner Baker.*

VOTE:

5 – 0 Motion carried.

Meeting ended: 1:47 P.M.