



STATE OF ARIZONA

Structural Pest Control Commission

Janet Napolitano
Governor

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Lisa Gervase
Executive Director

COMMISSION MEETING FRIDAY, April 13, 9:00 A.M. MINUTES

I. Call to order (9:03 A.M.), Commissioner roll call

Commissioners Present:

Bert Putterman, Debra Runbeck, Paul Baker,
Dave O'Neal

Commissioners Absent:

Patrick Black, Dave Burns, Dan DeVere

Staff Present:

Vince Craig, Lisa Gervase, Mike Francis,
Robert Tolton, Lorena Villela, Keely Verstegen,
Assistant Attorney General

II. Call to the public

Ken Frederick appeared before the Commission speaking on behalf of Arizona Pest Professional Organization (AzPPO). Mr. Frederick commended the Commission on its decision in Case No. 2006-063. He stated that his industry has been fighting unlicensed activity and theft of clients from employees who take advantage of situations. Mr. Frederick thanked the Commission for listening to the consumer in that case. He also thanked Ms. Gervase for attending the last AzPPO meeting and for answering questions. He said AzPPO broadcasted its first meeting on the Internet and thanked Commissioner Baker for conducting a CEU class.

III. Communication with Commissioners

No communications were reported

IV. Summary of Current Commission Events, Activities, Notices

Business and Qualifying Party License Renewal Status: Ms. Gervase said a list of licensees that did not renew as of December 31st are listed on the website.

Applicator license renewal – 1200 already renewed online as of today.

CE – Continue to be posted on website

Rules – Became effective April 7th. Ms. Gervase said the Commission has had a great response from industry members. The Commission has put on three new rules classes in the last month for companies that have had 50 or more attendees.

Industry Notice – A Notice was mailed out last month highlighting the rule changes.

V. Consent Agenda

A. Applications for New Business License Activating Qualifying Party License

Business

Qualifying Party

1.Home Guard Pest Control

David E. Poplin (“B1”)

Pulled by Commissioner Putterman. Mr. Poplin appeared before the Commission. He stated he is not an employee of the company he is just serving as QP for the company. Jared Peterson, Owner of Home Guard Pest Control, was before the Commission. He stated he would be doing the sales side and Mr. Poplin would be doing the service side of the business. Mr. Poplin stated he would be available anytime in case of an emergency. Mr. Poplin stated he is working for another company however, he would not disclose the other company’s name or what his other job consisted of. He stated he did not feel it was not relevant. He said he would be available to do QP duties at any time and added that that was sufficient information for the Commissioners to know that he would be available to perform the duties of QP. Mr. Peterson said that Mr. Poplin has been working for the company for over a month and every time the company has needed him, he has been available. Commissioner Putterman said he felt it was relevant that the Commission know where he was working. Commissioner Burns agreed with Commissioner Putterman and stated they needed to know in order to determine if he would be available. Commissioner Burns added that Mr. Poplin could have a cell phone but he could be in another country. Mr. Poplin said that he can be on site within 1.5 hours and is available at all times.

MOTION:

To approve the application for new business license in the “B1” category by Commissioner O’Neal.

Seconded by Commissioner Baker

VOTE: 3 – 1 Motion carried (Commissioner Putterman opposed)

2. Fountain of the Sun Country Club Jerold P. Markell

Pulled by Commissioner Putterman. Mr. Markell appeared before the Commission. Alan Ashton, the superintendent for the country club also appeared. Mr. Ashton said that he is the only applicator for this business.

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

VOTE: 4 – 0 Motion carried

3. Desert Mountain Exterminating Luis R. Molinar (“B1”)
4. Scottsdale Exterminating Donald L. Siegelen (“B1”)
5. All Organic Pest Control, LLC. David Saggio (“B1”)
6. Strickland Pest Control Richard J. Strickland (“B1”)
7. Horizon Inspection Service, LLC. Dennis T. Nobley (“B8”)

Pulled by Commissioner Putterman. Mr. Nobley appeared before the Commission. Commissioner Putterman said he wanted to confirm this was strictly for inspections and not for treatments. Mr. Nobley said yes.

MOTION: *To approve the application for new business license in the “B8” category by Commissioner Putterman.
Seconded by Commissioner Baker.*

VOTE: 4 – 0 Motion carried

8. Pest Police Pest Control, LLC. Michael B. Hull (“B1”, “B2”)
9. Simone Applications Brian K. Simone (“B3”, “B5”)

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

<u>Qualifying Party</u>	<u>Business</u>
1. Joseph R. Wright	American Building Maintenance Co. ("B5")
2. Ronald G. Hassler	Chemtech ("B1")
3. Tony H. Macis	CTM Pest Control ("B3")
4. Dennis R. Reed	Enviro Control, LLC. ("B3" and "B5")
5. Lee A. Spencer	Western Weed Control, Inc. ("B3", "B5")
6. James R. Potts	Caretaker Landscape Management, Inc. ("B3" and "B5")
7. Daniel R. Wilbur	Suncoast Pest Control ("B1")
8. Kevin C. Peterson	Enviro-Tech Pest Control ("B3")
9. Thomas J. Siefgried	Flood Control District of Maricopa County ("B1")

C. Applications for Qualifying Party License

1. Eliberto R. Pedroza	"B1"
2. John A. Bates	"B1" and "B2"
3. Mathew R. Hanrahan	"B2" and "B8"
4. James A. Wittman	"B1"
5. Brady D. Bruce	"B1"

Pulled by Commissioner Baker. Mr. Brady Bruce appeared before the Commission. Commissioner Baker questioned the ownership of the two Moxie companies. Mr. Bruce said he has 20% ownership of the company. Ms. Gervase explained that this is a franchise business and that one of the Moxie's is in California and one is in Texas, each with separate owners.

MOTION: *To approve the application for a Qualifying Party license in the "B1" category by Commissioner Baker.*

Seconded by Commissioner O'Neal.

VOTE: 4 – 0 Motion carried

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| 6. Gus C. Salazar | “B3” and “B5” |
| 7. Von R. Carlson | “B1” |
| 8. Jeffry D. Griffin | “B1” |
| 9. Jared Peterson | “B1” |

Pulled by Commissioner Putterman. Mr. Peterson appeared before the Commission. Commissioner Putterman said he had a concern with the verification of experience. He asked whether Mr. Peterson had any service experience, or whether it was all sales. Mr. Peterson said he has been in the business for 11 years doing service and sales in different states. He was with J.S. Pest Control for two years doing service.

MOTION: *To approve the application for a Qualifying Party license in the “B1” category by Commissioner Putterman.
Seconded by Commissioner Baker.*

VOTE: 4 – 0 Motion carried.

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| 10. Clint A. Pyle | “B5” |
| 11. Keith E. Whitted | “B3” and “B7” |

D. Business License Name Change Request

1. Complete Yard Care by CHC to CYC Landscaping

Pulled by Commissioner Putterman. Commissioner Putterman questioned whether this company did Home Care. Mr. Tolton said “no”, which is why the name is being changed from CHC to CYC Landscaping.

MOTION: *To approve the application for a Name Change by Commissioner Putterman.
Seconded by Commissioner Baker.*

VOTE: 4 – 0 Motion carried.

End of Consent Agenda

MOTION: *To accept the Consent Agenda with the exception of the items pulled for discussion (A1, A2, A7, C5, C9 and D1”) by Commissioner O’Neal. Seconded by Commissioner Baker.*

VOTE: *4 – 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

None

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

None

C. Application for Qualifying Party License

None

D. Business License Name Change Requests

1. TLC Pest Control to Community Pest Control.

Mike Yannis, Owner of TLC, Regina Wyler, Registered Owner of TLC, Tim Denny and John Wyler appeared before the Commission.

MOTION: *To approve the name change by Commissioner O’Neal. Seconded by Commissioner Baker.*

VOTE: *4 – 0 Motion carried.*

VII. Complaints

A. William Pettycrew (App) - Case No. 2006-051

Mr. Craig said a settlement conference was held and explained that a proposal was reached, but that the licensee, through his attorney, wanted to request an alternative resolution to the Commission. Steven J. Sparks, Attorney at Law, appeared before

the Commission representing William Pettycrew. Kevin Etheridge, President of Contractors Termite & Pest Control, Mr. Pettycrew's employer, and Doug Pinnecker, Qualifying Party of Contractors, also appeared. Mr. Sparks appeared before the Commission to address why he felt the case should result in an Advisory Notice as opposed to an Administrative Warning. Based on the minor violation, that the licensee cooperated with the SPCC, took corrective action, and has no prior complaints, Mr. Sparks stated that an Advisory Notice was more appropriate.

Mr. Sparks explained that they tentatively agreed with the proposed resolution, with the understanding that they would have the opportunity to raise the issue at the Commission meeting. Ms. Gervase agreed, stating that Commission staff feels that this should result in an Administrative Warning; however, licensees are free to reach a proposed resolution but present an alternative to the Commission. Mr. Craig said the Commission felt an Administrative Warning was appropriate because the shortage could not be corrected. The area could not be re-sprayed because the slab had already been poured and it was under the slab where the 60-gallon shortage occurred. Commissioner Putterman asked whether the homeowner was notified. Mr. Doug Pinnecker, Qualifying Party for the company, said there was no notification made to the homeowner. Commissioner Putterman said that he felt Mr. Craig was correct in that the application could not be replicated; however, the company had the applicator out there correcting the error, admitted fault and that the chances of termites occurring are slim to none. Commissioner Baker said he would like to see an extension of the Warranty and have the company notify the consumer making it a general rule to not only correct, but go an extra step. Mr. Pinnecker said extending the warranty for a year would not be a problem. Commissioner Baker said that it's important to note the slab type because that impacts the Commission's decision. In this case, it was a post-tension mono, perhaps lessening the chance of termites.

There was some discussion about the process of reaching a proposed settlement and then presenting an alternative to the Commission, with Commissioner Putterman disagreeing and Commissioner Runbeck agreeing with this process. Commissioner O'Neal commented that staff correctly processed this complaint and that the Commission can make exceptions. Assistant Attorney General, Keely Versteegen, clarified that the settlement conference is to try to reach a proposed resolution, but that the Commission makes the final decision, so it's appropriate for a tentative proposal to be reached and for staff and respondents to bring alternatives to the Commission.

MOTION: *To reject the proposed resolution and issue an Advisory Notice by Commissioner O'Neal.
Seconded by Commissioner Baker.*

VOTE: *4 – 0 Motion passed.*

B. Nathan Estrella (APP) – Case No. 2006-065

Mr. Estrella was not present. Mr. Craig said staff felt the applicator understands how to measure, but needed to be educated in the areas of laws to learn how to properly read labels. Mr. Estrella was in a rush and that is the reason he over applied.

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 O’Neal.
Seconded by Commissioner Baker.*

VOTE: *4 – 0 Motion passed.*

C. Johnny R. Aguirre (APP) – Case No. 2006-069

Commissioner Baker asked how Mr. Aguirre’s record has been with regard to pest control. Mr. Craig said this was his first violation. Commissioner Runbeck said this was strictly for the issue of the violation and not to address renewing his license. Commissioner Putterman said that he felt that continuously marking “no” on the felony conviction question was concerning. Mr. Aguirre was present to address the Commission. Mr. Aguirre said he did not disclose the conviction because during his plea agreement he was told that as soon as his probation was over it would be reduced to a misdemeanor. He said he did not intentionally try to withhold that information and added that it was an innocent mistake.

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 O’Neal.
Seconded by Commissioner Baker.*

VOTE: *3 – 1 Motion passed (Commissioner Putterman opposed).*

D. Melinda Adele Baker - (Unlicensed Applicator) – Case No. 2007-026

Mr. Craig said staff is recommending dismissing the complaint.

MOTION: *To dismiss, by Commissioner Putterman.
Seconded by Commissioner O’Neal.*

VOTE: *4 – 0 Motion carried.*

E. Sexton Exterminating - (BL) – Case No. 2006-066

There was no one from Sexton present. Commissioner Baker asked if all of the fines were paid. Ms. Gervase said everything was done except the issue currently before the Commission

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 O’Neal.
Seconded by Commissioner Baker.*

VOTE: *4 – 0 Motion carried.*

F. Dusty Randall Dukeman - (APP) – Case No. 2006-064

Mr. Dukeman was not present.

MOTION: *To approve 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 O’Neal.
Seconded by Commissioner Baker.*

Discussion: *Commissioner Baker asked about the status of this applicator and the company’s involvement. Mr. Craig said the applicator no longer works for this company. Ms. Gervase said it appears he was properly trained by the company to individually measure each pretreat site, and not use the builder’s plans, but did not follow that training.*

VOTE: *4 – 0 Motion carried.*

G. Sam the Bugman! - (BL)/Salvatore Fanelli (QP)/Gina Rehberg – Case No. 2006-008

Commissioner Putterman stated this is clearly a situation where the QP was being rented and the QP was running her own independent business. Commissioner O’Neal asked if there was a change in rule to prevent this from happening. Ms. Gervase said that with the new rule changes, companies will no longer be able to “rent” a QP. Commissioner Putterman said that this is the reason he asks these questions of Businesses and QPs, to get an idea of what the situation is with the QP. Commissioner Putterman said that in this situation he felt it could be termed as operating a branch office without registering it. Commissioner Putterman asked why

operating a branch office was not explored. Mr. Craig said that there wasn't a branch office, but the second QP was not bringing the records to the business licensee. The second QP was doing work under the business license, not providing proper records, and then left town. Commissioner Putterman stated he feels the Business Licensee should also be held accountable. Mr. Craig clarified that the proposed resolution is against the business licensee, and the QP who left town.

MOTION: *To accept the proposed resolution and Suspend the applicator license and qualifying party license of Gina Rehberg due to non-payment of renewal fees [license automatically revoked in one year], and dismiss the complaint without prejudice against Ms. Rehberg and Salvatore Fanelli's qualifying party license by Commissioner O'Neal.
Seconded by Commissioner Baker.*

VOTE: *4 – 0 Motion carried*

(Break from 10:13 to 10:23 a.m.)

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

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

None

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

Larry M. Ward Applicator License No. 061150- Case No. 2006-059.

Mr. Ward was present. Ms. Gervase said she received a letter from the Mr. Ward's employer who states Mr. Ward continues to be a hard worker, dependable and has a good attitude. Ms. Gervase also received a letter from the Maricopa County probation officer who states Mr. Ward is complying with all of the terms of his probation and has met his AA attendance requirement.

XVI. Applicants with Criminal Convictions

A. Jeffrey L. White

Mr. White appeared before the Commission. Erma Elliot (Office Manager of Arrow Exterminators) was present. Commissioner O'Neal asked Ms. Elliot what her opinion of Mr. White was. Ms. Elliott said he is hard working, and someone she can always depend on she stated she has always found him to be reliable. Mr. White said he had not had any further legal problems and added that he learned his lesson.

MOTION: *To accept by Commissioner O'Neal.
Seconded by Commissioner Putterman.*

VOTE: *4 – 0 Motion carried.*

B. Terry A. Molkentine

Mr. Molkentine and Craig Gerhart (QP of Phoenix Exterminating) appeared before the Commission. Mr. Molkentine said he is doing good and has kept clean. Mr. Gerhart said Mr. Molkentine is hard working, is a family man, and deserves a second chance. Mr. Molkentine has worked for Mr. Gerhart for three months.

MOTION: *To accept by Commissioner Putterman.
Seconded by Commissioner O'Neal.*

VOTE: *4 – 0 Motion carried.*

C. Ricardo Caballero, Jr.

Mr. Caballero was not present before the Commission. Mr. Tolton said that every piece of mail that has been sent to Mr. Caballero has been returned to the

Commission as unclaimed. Ms. Gervase said there is plenty of time to table it, however, if he has not responded he may not be interested in obtaining an applicator license and added that the Commission has tried to reach him for two months. Mr. Tolton said Mr. Caballero did respond to one of the correspondence letters, but thereafter all mail was returned to the Commission as undeliverable. Commissioner Putterman felt there should be an opportunity for Mr. Caballero to appear. Commissioner Runbeck agreed with Commissioner Putterman. Mr. Tolton said that the Commission does have the option of sending a request for more information. Ms. Gervase said that if it were tabled then the Commission would have to make a decision at the next meeting. Commissioner Runbeck asked why there was no presentence report. Mr. Tolton said the case is out of Texas and the only information Mr. Caballero provided was the indictment.

MOTION: *To deny based on Felony conviction by Commissioner O’Neal.
Seconded by Commissioner Baker.*

VOTE: *2 - 2 Motion failed.*

Commissioner Runbeck is requesting a letter for more information with details of the crime, any additional charges since this crime, whether he has another job, and if he has he had any difficulties with probation. If he responds by the deadline, the application can be re-agendized. Otherwise, the application will close.

D. Jason Schilling

Mr. Schilling was present before the Commission he was accompanied by Kirk Smith, Supervisor of Maricopa County Vector Control. Mr. Smith said that John Townsend, Director of Maricopa County Vector Control, informed him that Mr. Schilling has been with Maricopa County for three months, and is a good employee. Mr. Schilling said that during his time on probation, he was required to attend various classes, has completed everything and is no longer on probation.

MOTION: *To approve by Commissioner Baker.
Seconded by O’Neal.*

VOTE: *4 - 0 Motion carried*

E. Cory John Linninkamp

Mr. Linninkamp was not present. Mr. Tolton said the offense was supposed to be designated as a misdemeanor; however, due to a probation violation it was deemed a felony.

Tabled

F. Melinda Adele Baker

Ms. Baker appeared.

MOTION: *To approve by Commissioner O’Neal.
Seconded by Baker.*

VOTE: *4 - 0 Motion carried*

G. Christopher J. LeDune

Ms. Gervase said she has a letter from the employer, who states Mr. LeDune is dependable and hardworking. Mr. LeDune appeared with Jim LeDune (General Operator of Sunrise Pest Control) and Mike LeDune. The applicant said he made a dumb mistake and no loner drinks or smokes. Jim LeDune said Chris has helped the company and is an outstanding person.

MOTION: *To approve by Commissioner O’Neal.
Seconded by Baker.*

VOTE: *4 - 0 Motion carried*

H. Johnathon A. Sterkeson

Mr. Sterkeson was not present before the Commission. Commissioner Baker said he had questions he would like to ask Mr. Sterkeson.

Tabled

XVII. Commission Updates

A. University Termite & Pest Control/Richard Rupkey, II, Case 2005-069.

Scott Richardson representing the respondents, and Rick Rupkey appeared. Ms. Gervase said yesterday staff reviewed the Order terms and documents that the respondents submitted to show compliance to date and had questions about whether there has been compliance with a few items. She provided one example of whether all applicators that were supposed to attend a class did so. Mr. Rupkey stated that he did not believe that the folks who did not attend were performing pretreatments, but would have to check. Staff will provide the respondents with the items that are in question for them to respond at the next schedule compliance appearance in two months. Mr. Rupkey said they have used the days of suspension for employee wide training. Mr. Rupkey said they have attempted to keep the vehicles off the road, but explained that if they’re on the road during the suspension days, it’s only for vehicle maintenance/repair. He will be working with the consultant

to set up meetings with SPCC staff. Commissioner Baker had a concern with the employees not being paid during the days of suspension, and Mr. Rupkey clarified that all employees are being paid during the suspension days.

B. Status Report: Kent Griffith – Case No. 2006-025

Ms. Gervase said there is a response in the materials regarding the status, from the Attorney General. The Commissioners expressed their dissatisfaction with the decision of the Attorney General's Office not to pursue further action.

C. Commission training

Tabled.

D. Legal Advice regarding A.R.S. § 32-2325(6) as to whether a “salesperson” is required to be licensed, and if so, when.

Attorney General Keely Verstegen has recently been appointed as the Attorney General and was not able to provide legal advice until she has sufficient time to become familiar with the Commission. Tabled.

E. Complaint status log.

No questions.

F. Computer Based Testing “CBT” Status and Statistics

No questions

F. Expenditure report

No questions

G. Case Status Report

Ms. Gervase mentioned highlights of the written report that was emailed to the Commissioners. The Commissioners complimented staff on its efforts to complete the hundreds of old cases from 1989-2002, and pursue compliance with outstanding orders.

XVIII. Approval of the minutes and Continuing Education Programs

A. March 9, 2007 (regular session) Minutes

MOTION:

*To approve the March 9, 2007 Minutes
by Commissioner O’Neal.*

Seconded by Commissioner Baker.

VOTE: *4 – 0 Motion carried.*

B. Continuing Education Program Applicants

MOTION: *To approve the CE Program Applicants
by Commissioner Putterman.
Seconded by Commissioner O’Neal.*

VOTE: *4 – 0 Motion carried.*

XIX. Future meetings

Per tentative schedule. Commissioner O’Neal asked if there will ever be meetings in other areas of the State. Ms. Gervase said it has been done in the past; however, there was not sufficient attendance to justify the added expense. Ms. Gervase said the Commission does; however, hold many CE classes throughout Arizona.

XX. Adjournment

MOTION: *To Adjourn by Commissioner O’Neal.
Seconded by Commissioner Baker.*

VOTE: *4 – 0 Motion carried.*

Meeting ended: 11:10 A.M.