



STATE OF ARIZONA

## **Structural Pest Control Commission**

**Janet Napolitano**  
Governor

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**Lisa Gervase**  
Executive Director

### **COMMISSION MEETING FRIDAY, June 8, 2007, 9:00 A.M. MINUTES**

#### **I. Call to order (9:02 A.M.), Commissioner roll call**

Commissioners Present: Paul Baker, Dave Burns, Bert Putterman, Debra Runbeck.

Commissioners Absent: Patrick Black, Dan DeVere, Dave O'Neal.

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

#### **II. Call to the public**

*Ken Fredrick, Arizona Pest Professional Organization (AzPPO) said that AzPPO is the state association representing pest control operators. The mission of AzPPO is to help pest control business owners run more professional and profitable businesses by offering quality education, responsible legislation and proven business practices. Most PCOs have fewer than 10 employees and can use this help. Over the past 16 months AzPPO has held meetings every 60 days to help meet their mission. AzPPO has a close relationship with the National Pest Management Association. By becoming a member of AzPPO, business owners can take advantage of NPMA benefits.*

*Attorney Scott Richardson mentioned confusion about one of the new rules (R4-29-213.D), which says that a branch office has to be owned by the business licensee. He feels this rule needs to be clarified.*

*Daniel Monson, DLC Resources, said he wanted to go on record to say that SPCC staff has been tremendous help with his license application and processes, and any question that his office has had.*

### **III. Communication with Commissioners**

*Commissioner Burns was copied on a letter from Dr. Pfeiffer about his testing experience. He received e-mail from Attorney Scott Richardson forwarding him a position statement from AzPPO. He also received an e-mail from Jack Root regarding the University Termite & Pest Control case, but it did not contain the attachment. The other Commissioners also received the letter from Dr. Pfeiffer and Jack Root's e-mail without the attachment.*

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

*Business and Qualifying Party License Renewal Status: Licenses that were not renewed by 12/31/06 are expired and licensees cannot operate. Lists of expired licensees (as of 1/12/07) are on the website home page, scroll down to Industry Notices. Search current license status on home page, License Search.*

*Applicator License Renewal Process: Began 4/1/07. As of 5/31, licenses expire and late fees apply. Must apply anew after 6/30. Renew online with Renew EZ and save \$5.00. The Applicator renewal process without late fees ended in May; however, Applicators can still renew till the end of June. 70% of Applicators have renewed online. The SPCC will post a list of Applicators who have not yet renewed on the website, which seems to be the most effective and efficient method for people to obtain information.*

*Ms. Gervase encouraged people to continue to look at the SPCC website for updated news and information, such as for CE Courses and initial license training classes. The SPCC conducted continuing education courses pertaining to the new rules, in addition to the CE courses posted on the website. Ms. Gervase said there was an excellent turnout of those courses. Over the last few courses, the SPCC has had the opportunity to meet many industry members and receive a lot of input from them. The SPCC has seen a drop in investigations and complaints that are directly attributed to the education and compliance assistance inspections. Ms. Gervase said that it makes more sense to use the resources on the front end rather than have to deal with complaints on the tail end.*

*New Rules – effective 4/7/07, are on the Website home page, Rules, New. The Commission received very nice letters from the Cactus and Pines Association and the University of Arizona, thanking SPCC staff for participating in their CE courses.*

*Industry Notice mailed to all Business Licensees in 3/07, and posted to the Website home page, Industry Information, Industry Notices. It also contains the rule change highlights.*

Ms. Gervase announced that the SPCC's "My Account" online management tool for licensee's to update their contact information. The SPCC is working toward providing the ability for industry members to print their own licenses and by the next renewal cycle provide them with the ability of printing their own renewal forms.

Commissioner Burns asked about the applicator license renewal application question pertaining to criminal convictions. Ms. Gervase explained the history and process due to the rule change. Regarding the online renewal applicator renewal process applicants would not be able to proceed until they contact the Commission because previously they did not have to disclose the conviction but now they would be required to. The Commission will then conduct a background check. The online renewals began on April 1, 2007, before the new rules became effective on April 7, 2007. Ms. Gervase added that the online renewals were designed for people who do not have convictions.

Commissioner Runbeck said there was a question as to having to put down any misdemeanor and since the only ones the Commission can consider are the ones of moral turpitude. Commissioner Runbeck said that was such a foggy term and that at times the Commission has had to obtain the opinion of the AG. She said that to ask an applicant to make that determination would be impossible.

Commissioner Burns suggested the Commission develop a list that would closely list all of the issues considered to be of moral turpitude. Commissioner Runbeck added perhaps list what is not considered moral turpitude. Ms. Gervase agreed that this would help move toward doing more things on-line.

## **V. Consent Agenda**

Commissioner Putterman asked Commission staff to indicate on the information provided to the Commissioners when there are name similarities so that the Commissioners know it was addressed before the Commission meeting.

### **A. Applications for New Business License Activating Qualifying Party License**

#### Business

1. Ant Bee's Pest Control

#### Qualifying Party

Chad D. Lowder ("B1")

*Pulled by Commissioner Putterman and Commissioner Burns. Mr. Lowder was present. Commissioner Putterman said he wanted to make sure Mr. Lowder was aware that a notorious company with a similar name had its license revoked for performing felonious activities. The name of the company was Ant Brian. Commissioner Putterman informed Mr. Lowder that it was all over the newspaper. Mr. Lowder said he was comfortable with the name.*

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

**VOTE:** *4 – 0 Motion carried.*

- 2. Superstition Sky Xeriscape Jay W. Bancroft (“B3”, “B5”)
- 3. Griffin Pest Management Jeffrey D. Griffin (“B1”)
- 4. Anasazi Pest & Gopher Control Randall S. Valencia (“B1”, “B4”)
- 5. San Tan Exterminating, LLC. James A. Wittman (“B1”)
- 6. Sharp Shooters Pest Control Henry Espinoza (“B1”)
- 7. Sun City Vistoso Community Association, Inc. Michael P. Kropf (“B3”, “B5”)
- 8. S.O.S. Exterminating Scott E. Adkins (“B3”)

*Pulled by Commissioner Burns. Commissioner Burns said he was not clear on what was going to happen with the existing warranties. Mr. Stephen Weber said the company is assuming them.*

**MOTION:** *To approve the application for new Business license in the “B3” category by Commissioner Burns.  
Seconded by Commissioner Baker.*

**VOTE:** *4 – 0 Motion carried.*

- 9. S.O.S Exterminating Stephen F. Weber (“B1”, “B2”, “B8”)

*Commissioner Burns said he had the same question as A8.*

**MOTION:** *To approve the application for new business license in the “B1”, “B2” and “B8” categories by Commissioner Burns.  
Seconded by Commissioner Baker.*

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

- 10. South Mountain Pest Management Colt J. Ferguson “B1”

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

<u>Qualifying Party</u>	<u>Business</u>
1. Shigeki Saimo	Finishing Touch Landscape Maintenance & Nursery, LLC. ("B3")
2. Scott D. Mishler	Alpha Ecological ("B1", "B2" and "B8")
3. Julius M. Gross	Gro Industries, Inc. ("B3" and "B5")

*Pulled by Commissioner Burns. Mr. Gross was present. Commissioner Burns said that the Business is located in Phoenix and asked if Mr. Gross resides in Camp Verde. Mr. Gross said yes. Mr. Gross said his responsibilities with the company are that he just stops in and checks in to see what the weed work is for the day and to see how the applicators are doing.*

*Commissioner Burns asked if the company employed him or if the company was just using the license. Mr. Gross said they are just using the license. Commissioner Burns read the application by quoting Mr. Gross in saying that certified techs are responsible for the purchase and application of pesticides in his absence. Mr. Gross said yes. Commissioner Burns asked if he was fully aware of the responsibilities and liabilities as a Qualifying Party in these types of situations. Mr. Gross said he was aware and added that he has been one since 1980. Commissioner Burns asked if he had been a rental license holder. Mr. Gross said no and said he had been a Qualifying Party since 1980. Commissioner Baker asked if he understood that if an employee makes a mistake, he will be held accountable for it. Mr. Gross said yes.*

*Commissioner Runbeck asked if he would be able to respond if there was an emergency in Phoenix, but he is in Camp Verde. Mr. Gross said yes, he comes down to Phoenix on a daily basis and is close by. He said he has another job and has to come to Phoenix anyway. Commissioner Runbeck asked if he would be able to leave the job. Mr. Gross said yes.*

**MOTION:** *To approve the application to activate the Qualifying Party for Existing Business license in the "B3" and "B5" categories by Commissioner Baker.  
Seconded by Commissioner Runbeck.*

*Discussion: Commissioner Baker said the Commission is concerned because they have been harping at people to be actively involved because of joint responsibility. The Commission encourages active management. Commissioner Putterman said that based on the statutes and rules, Mr. Gross meets the requirements, but he votes against applications like this*

*on principle. He's not trying to keep people out, but protect the public with a hierarchy of knowledge and accountability. A rent-a-license doesn't protect the public. People come in without experience and get a temporary QP. Mr. Gross may know his business but people under him may not or they'd have QP licenses. He said the business license structure should be changed, and he's been saying this for 20 years. Commissioner Runbeck said that while licensing issues may need to be addressed, the Statutes and Rules did not prohibit Mr. Gross from obtaining a license. The Commission cannot deny a license because it "thinks" that someone may not be responsible.*

*Commissioner Burns said he was concerned with absentee Qualifying Parties. Based on Mr. Gross' statements, he did not feel Mr. Gross was actively involved, and he was not comfortable with approving the application.*

*Mr. Gross said that if he came down and checked to see how the work was going, other than making the applications himself he did not know what else he could do. He said the company had certified applicators to do that. He also said he owned a weed control business for many years before he actually sold it. Now he supervises where he can and knows what he is doing.*

*Commissioner Putterman said that the point is that a business licensee who doesn't hold a QP license is telling applicators what to do. The person who holds the QP license isn't involved in the decisions but is responsible if something goes wrong. He wouldn't accept that liability for \$500-2,000 a month.*

*Commissioner Burns asked Mr. Gross if he had read through the Rules. Mr. Gross said yes. Commissioner Burns asked if he had read A.A.C. R4-29-503. Mr. Gross said he could not tell him what that rule was by its number.*

**VOTE:** 3 – 1 Motion carried. (Commissioner Burns opposed)

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|-------------------------|-------------------------------------------------|
| 4. Lee T. Maglanoc      | Nu-Treat Pest Services, LLC. ("B1", "B2", "B8") |
| 5. Collin S. Ethington  | Atomic Pest Control, LLC. ("B3", "B5")          |
| 6. Jedsmond M. Maglanoc | Apocalypse Termite and Pest Control ("B1")      |
| 7. Jousty M. Maglanoc   | Apocalypse Termite and Pest Control ("B8")      |

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|-------------------------|----------------------------------------------------|
| 8. Daniel Manasan       | Apocalypse Termite and Pest Control (“B2”)         |
| 9. Clint A. Pyle        | Environ Control, LLC. (“B3”, “B5”)                 |
| 10. Dennis A. Reed      | Integrated Landscape Management, LLC. (“B3”, “B5”) |
| 11. Jeffrey L. White    | Surprise Pest Control (“B1”, “B2,” “B8”)           |
| 12. Terry L. Whipple    | Bulwark Exterminating, LLC. (“B2”, “B8”)           |
| 13. Timothy S. Cooper   | Vistal Golf Club (“B5”)                            |
| 14. Clarendon P. Sharpe | Sharpe Pest Control (“B1”, “B2”, “B8”)             |

**C. Applications for Qualifying Party License**

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|----------------------|------|
| 1. Jeffrey A. Barnes | “B1” |
|----------------------|------|

*Pulled by Commissioner Burns. Mr. Barnes was present. Commissioner Burns said that Mr. Barnes became an Applicator in June of 2006; However, Mr. Barnes only showed practical experience from May of 2005 through June of 2005, July of 2005 through September of 2005, and a lot of 2006. Mr. Burns said he needed Mr. Barnes to clarify the 2005 hours and asked if he was not a licensed certified applicator, how did he get the experience for the 2005 year. Mr. Barnes said he was working with a QP at that time.*

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

**VOTE:** *4 – 0 Motion carried.*

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|---------------------|------|
| 2. Mia S. Hernandez | “B3” |
| 3. Jason R. Hopkins | “B1” |
| 4. Jud B. Smith     | “B1” |
| 5. Jorge M. Reyes   | “B1” |
| 6. Zachary C. Gable | “B3” |

*Pulled by Commissioner Burns. Mr. Gable was present. Commissioner Burns said he had the same questions along the same lines as Mr. Barnes. Mr. Gable showed employment since 2004; however, the verification of practical experience shows experience since 2002. Mr. Gable said he was riding with a QP from 2002 to 2004.*

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

**VOTE:** 4 – 0 *Motion carried.*

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|------------------------------|------------------|
| 7. Kevin L. Kennedy          | “B1”             |
| 8. Tao X. Nguyen             | “B1”             |
| 9. Mark A. Pacheco           | “B3”, “B5”       |
| 10. Alan L. Garcia           | “B1”             |
| 11. Alex C. Ramos            | “B1”             |
| 12. Michael A. Yanes         | “B1”             |
| 13. Pedro Perez              | “B3”             |
| 14. Bruce A. Waichulaitis    | “B1”             |
| 15. Enrique Isas             | “B2”, “B8”       |
| 16. Michael S. Rogowski, Sr. | “B1”, “B2”, “B8” |
| 17. Thomas P.F. Grimm        | “B1”             |
| 18. Eric N. Hanna            | “B1”             |
| 19. Jonas Armenta            | “B3”, “B5”       |
| 20. Brian S. Doherty         | “B5”             |
| 21. Paul A. Firman           | “B8”             |
| 22. Tracey L. Gransie        | “B1”, “B2”, “B8” |
| 23. William G.L. Beard       | “B3”, “B5”       |

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|------------------------------|------------------|
| 24. Ernesto B. Magana        | “B1”             |
| 25. Joshua A. Strauss        | “B1”             |
| 26. Reginal Earle Moorby, II | “B5”             |
| 27. Jeffrey E. Eckart        | “B3”, “B5”, “B9” |
| 28. Jeffrey R. Morin         | “B3”, “B5”       |

**D. Business License Name Change Request**

1. Weed Control Services of Arizona to Arizona Weed Control Services

*Pulled By Commissioner Burns. Mr. Daniel Barth appeared. Commissioner Burns said he was not comfortable with issuing that name because from the position of the public it is confusing and can be easily confused with other companies that contain Arizona in it. Commissioner Burns read a list of several companies with Arizona in it. Mr. Tolton said that the fact that we are in Arizona, the use of Arizona in a company name is very popular. Mr. Tolton said Commission staff looked at the names and found that Arizona Weed King is the closest. Mr. Barth said he wanted to emphasize Arizona and weed control more because he was now doing business statewide. Commissioner Runbeck said she did not find the names confusing, and if consumers confuse names that easily, then names may not matter much.*

**MOTION:** *To approve the name change from Weed Control Services of Arizona to Arizona Weed Control Services by Commissioner Putterman.  
Seconded by Commissioner Baker.*

**VOTE:** *3 – 1 Motion carried. (Commissioner Burns opposed)*

**End of Consent Agenda**

**MOTION:** *To accept the Consent Agenda with the exception of the items pulled for discussion (A1, A8, A9, B3, C1, C6, and D1) by Commissioner Putterman.  
Seconded by Commissioner Baker.*

**VOTE:** *4 – 0 Motion carried.*

**VI. Applications not on Consent Agenda**

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

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|------------------|------------|
| 1. Gary D. Slone | “B3”, “B5” |
|------------------|------------|

*Mr. Slone was not present. Mr. Tolton said that aside from receiving an application to renew the Temporary Qualifying Party, he had not heard from Mr. Slone or the former Qualifying Party. Mr. Tolton said neither of the two individuals had submitted an application for a Qualifying Party. Commissioner Putterman asked whether staff attempted to clarify the reference to the six-month timeframe in the applicant's May 14 letter, because he hears how the SPCC is assisting industry and has reached out to everyone to help out; however, it received a letter with a timeframe that is irrelevant to anything and just accepted it.*

*Ms. Gervase said no clarification was needed because the six-month timeframe was in the substantive policy statement that went into effect in May of 2005, and was recently codified in the new rules, which states that one of the factors that the Commission considers in deciding whether to renew a Temporary QP, is that no more than six months elapsed from when the immediately proceeding valid active QP disassociated from the business.*

*Commissioner Putterman said that if his staff received a letter like that and staff had a month to contact them and give them a friendly reminder, that in terms of being helpful to people, he felt the company should have been contacted.*

*Ms. Gervase said they did contact them by sending them a letter notifying them it would be addressed at today's Commission meeting. Mr. Tolton added that the letter was mailed certified and stated it was mandatory for someone to appear today.*

*Commissioner Baker said that these are adults and the responsibility falls on the applying individual. People who need a license should understand the license requirements.*

*Commissioner Runbeck said that in the past the Commission has fairly liberally granted one renewal, which may be why this applicant didn't appear today.*

*Commissioner Burns said he could not recall any circumstances where the Commission had given a QP where a company did not have a plan in place. He said that in this instance there was no plan.*

*Mr. Francis said he had conversations with the former QP and Mr. Slone. He said that as far as the long-term plan, he was aware that Mr. Slone was the individual that was being groomed to take over that activity, as the former QP had expressed an interest in retiring.*

*Commissioner Burns said he felt the matter should be tabled so that they can come in and answer the questions.*

**MOTION:** *To approve the request for Temporary QP renewal by Commissioner Runbeck.  
Seconded by Commissioner Baker.*

**VOTE:** *2 – 2 Motion failed.*

*(No action was taken)*

*Mr. Francis clarified later in the meeting that he spoke to Mr. Slone during a break. Mr. Slone told him he was fully aware that he was supposed to be present at the Commission Meeting and said that because he is the assistant superintendent of the course his boss denied him the opportunity to attend and said that he was very concerned but was not allowed to take time off to attend. Mr. Francis said Mr. Slone alleged that within two weeks he would submit his application.*

**2. Jeffrey A. Barnes** "B1"

*Mr. Barnes was present. Commissioner Putterman asked Mr. Barnes what happened to the previous QP. Mr. Barnes said he passed away.*

**MOTION:** *To approve the request for Temporary QP renewal by Commissioner Putterman.  
Seconded by Commissioner Burns.*

**VOTE:** *4 – 0 Motion carried.*

**3. Gloria L. Kilian** "B1"

*Ms. Kilian was present. Mr. Tolton said he spoke to Ms. Kilian two days earlier. Ms. Kilian told him that she had contacted licensees who were on the inactive Qualifying Party list, and who were potential prospects. Commissioner Burns asked Ms. Killian where she was in obtaining a Qualifying Party. Ms. Killian said that she has contacted several individuals and added there is one individual in particular who is out of town that looks like a good prospect. Commissioner Burns asked if there was someone in her company who would be competent to apply for Qualifying Party. Ms. Killian said no and she was the most qualified since she's been in business for 36 years. Commissioner Burns said he would give her his support if she said she would be attempting to take the test. Ms. Kilian said that is an option and she probably will apply.*

**MOTION:** *To approve the request for Temporary QP renewal by Commissioner Putterman.  
Seconded by Commissioner Burns.*

**VOTE:** *4 – 0 Motion carried.*

4. Phil E. Wendel

“B1”, “B2”, “B5” and “B8”

*Mr. Tolton said that on about May 21, the SPCC inspector of the day received a phone call from a consumer who was seeking pest control services, asking about the status of the business license. When the inspector saw that the business license was not valid because the QP license had expired, supervisor Mr. VandenBerg visited the business to let them know and provide them with possible options. The licensee also spoke with Mr. Francis and Ms. Gervase to confirm that the Company could not qualify for a Temporary QP license because there wasn't a disassociation and it had been more than 45 days since the expiration of the QP license.*

*Attorney Scott Richardson was present representing Mr. Wendel. Mr. Richardson said he did not believe that the QP of Mr. Seddon had expired. Under the Administrative Procedures Act, there are 130 days for any deficiencies in a license application to be asked for and be rectified by the Commission. No one called the company to notify them that they were missing the QP license renewal. The Commission just issued a Business License, which said Mr. Seddon was the QP for 2007. The business submitted the temporary QP application and staff rejected it. Mr. Richardson then wrote to Mr. Francis and asked that the issue be added to the Commission Meeting agenda and was told that it would be included, which was why the issue is before the Commission. This company has been in business for 27 years with the same person running the company and does not have a checkered past. He said they are entitled to obtain a Temporary QP; however, he was told they could not get it because the rule says you have to apply for a Temporary Qualifying Party within 45 days of the disassociation. He said that if one assumed it occurred in December, the 45 days were long gone.*

*Mr. Richardson said that in this case he understood there was a consumer complaint, but if it came in on the 21<sup>st</sup> that would have been the 44<sup>th</sup> day after the new rules. He said his client was not contacted until the 46<sup>th</sup> day and feels that staff intentionally waited until it was too late for them to obtain a temporary QP license.*

*Commissioner Runbeck said there was not an actual disassociation of the QP, which is required before issuing a temporary QP license. Commissioner Runbeck said the only thing before the Commission was not whether his QP license was renewable or anything else. The only issue at hand was if he would be granted a Temporary QP. She said that she would not entertain Mr. Richardson's allegation of intentionally making this past the 45 days within which to apply for a temporary QP license.*

*Commissioner Runbeck asked Mr. Seddon how many times he had had to renew his QP. He answered twenty-seven times. She asked him how many times he had had to renew his BL. He answered the same. Commissioner Runbeck asked*

*if each of those times he did both. Mr. Seddon answered yes. Commissioner Runbeck asked if this time he felt just doing his business license would take care of it. Mr. Seddon said he did not think that at all, he thought it was done when he received the license that said Qualifying Party 605BC, Business License for 2007.*

*Mr. Seddon said he was under the impression that it was renewed. He said that for \$125.00 there was no reason why he would not renew his license. He said he intended on continuing business until he could. Mr. Seddon said he has been in the industry for over 27 years and added that he had only previously been before the Commission for a minor issue.*

*Commissioner Runbeck asked Commission staff if there was a notice other than what was on the website that went out to QPs to renew.*

*Ms. Gervase said the SPCC sent out the first notice in late October to Businesses and Qualifying Parties. Ms. Gervase said that everyone who hadn't renewed by December, were sent out the renewal forms indicating that there were two renewals. On the bottom of the Qualifying Party renewal it said, "this is for Qualifying Party only, there is a separate Business License renewal form". Alternatively, the Business License Renewal form also had a statement on the bottom of the page that says, "this is for Business License only there is a separate Qualifying Party renewal". At the time Mr. Seddon renewed the BL, the QP had not expired yet, so there was no deficiency in the Business license application to rectify. The Business license was renewed in early or mid-December of 2006, before the QP license expired, so when the business license was printed, Mr. Seddon still was the valid QP. The QP did not expire until December 31, 2006.*

*Commissioner Burns said the Commission was issuing a 2007 license not a 2006 license, and therefore, if they were issuing a license saying that the license was good for the next 12-month period, the Commission was obligated to make sure everything was in line and the Commission did not do that.*

*Ms. Gervase said that at the time Mr. Seddon renewed the BL, the QP had not expired. The BL renewal application was complete including having an active QP. Therefore a BL was issued listing Mr. Seddon as the QP because he was the active QP at the time.*

*Ms. Gervase clarified she did not indicate in the January 2007 meeting that she was calling every single person who's license had expired. What she said was that there were a number of businesses and QPs that had not renewed as of January 11th; and that the list would be posted on the Website; and that all licenses expired as of December 31st that hadn't been renewed and shouldn't be operating. She said she also encouraged everyone to renew. She said that at the Commission meeting she did say they sent out notices and even had some*

*personal phone calls with some of these people because of other circumstances wherein their expired license status was noticed. Ms. Gervase said that another notice that was sent out was the October notice, the December renewal forms, the January website posting, and a March notice where they mentioned checking the website for the list of expired licenses. Commission staff goes out above and beyond and that at some point the licensees must be held responsible.*

*Commissioner Runbeck asked if the expiration of the QP license counted as a disassociation and if the Commission had the legal authority to grant a Temporary QP if there had not been a disassociation. Ms. Verstegen said the statute said the Commission could grant a Temporary QP if the QP has disassociated. Ms. Verstegen read the legal definition of disassociation and said that an expired license is not a disassociation, and that the Commission had no legal authority to issue a temporary QP license if there has been no disassociation.*

*Mr. Richardson said the words had to be expanded to a reasonable interpretation. He added that there is a disassociation if a person has a disability, and there is a disability when they are not able to go out and act as a QP, therefore they are disabled. Commissioner Runbeck said she did not feel that was the intent of the rule.*

*Commissioner Putterman said this is a hell of a pickle and he doesn't necessarily disagree with staff, but that the dates and times, etc. are technicalities. This is throwing the Commissioners under the bus forcing them to decide whether to break the rules or the Substantive Policy Statement to allow someone to qualify temporarily to stay in business. He said the way to resolve it is to allow Mr. Wendel to be the Temporary QP.*

*Ms. Runbeck agreed there was a snafu, and is trying to resolve this without violating the rules and statutes. She said that any kind of allegation that staff deliberately tried to mess with someone is way out of line. They don't have to baby-sit someone and make sure that if they have not renewed that they have to call them and remind them to renew. Commission staff has no reason to put him out of business and can't treat people differently. She said she respectfully disagreed with Commissioner Putterman and said her concern was whether they could legally grant a Temporary QP. She said she would not want to make an exception in granting Mr. Seddon's business a Temporary QP. She said she would not want to have to explain to someone in the future that the Commission granted Mr. Seddon a Temporary QP because he was a nice guy and had been in business for a long time.*

*Mr. Tolton said he personally had never previously met Mr. Seddon. Mr. Tolton said he spends a lot of time on the phone contacting businesses and educating them. However, he cannot do that with every licensee. The SPCC began listing the name of the QP who is the QP at the time a business license is issued or*

*renewed, on a business license, with the QP's license categories because the business can only operate in the categories held by the QP. But, if there is a change in the QP's categories, a change in the QP, or change in the status of the QP license, the business notifies the SPCC and a new business license is issued.*

*Commissioner Runbeck questioned how to analyze the 45 days, and whether it is under the new rules that set out the 45-day requirement, or under the prior policy statement that said 45 days, which is guidance only. Ms. Verstegen said the new rules apply because the temporary QP license application was filed after the new rules became effective. Regardless, there was no disassociation under the statute.*

*Commissioner Runbeck said the only issue is the temporary QP application. Ms. Gervase said they offered to help the business find an inactive QP to activate for the business and they would have put that on today's agenda for approval.*

*Commissioner Burns said he disagreed that the only thing before the Commission was the temporary QP. He said staff works very hard, but a mistake was made when issuing the business license paper that says it was good through 2007. He questioned why the Company would spend thousands of dollars on an attorney just because they did not fill out a form. He said both parties made a mistake and said he gets very angry at the fact that the Commission cannot say they made a mistake. He said he was under the impression that Ms. Gervase said they called or contacted everyone on the list.*

*Commissioner Runbeck said that it was not a mistake. The QP was active at the time the BL was issued.*

*Commissioner Burns said that if the Commission issues something to the company that says they are in line for next year then they are in compliance. He said the Commission did not make sure everything was in place. He said that those things needed to be tied together because then this would happen.*

*Mr. Tolton said that the way the licensing was set up, the QP did not have to be the BL and vice versa. There are numerous businesses that renew their Business licenses without having a QP. They renew their licenses so that they could keep their name, their license number and license history. If a business renewed before the QP did then the Commission issues the BL. The QPs who renewed before the BL did, they get their QP. At the end of the year, if the QP renewed and the BL did not, then the QP automatically goes on inactive status. That is what is in the rules and statutes and that is what the Commission needs to follow. There were several notices and postings that were sent out. It was also spoken about in the Commission meetings. Mr. Tolton said he did not feel the Commission made a mistake because there were several notices given.*

**MOTION:** *To approve the request for Temporary QP by Commissioner Baker.  
Seconded by Commissioner Putterman.*

Discussion: *Ms. Versteegen said she did not feel the Commission had the legal authority to issue the Temporary QP. Commissioner Putterman said his vote was not based on the Commission voting outside of the Statute. He said he was willing to accept the possibility that this person is disabled by the situation and added that if that was found not to be true, or it was further defined, then it could be revisited in the future.*

*Commissioner Runbeck said that this was an unfortunate circumstance, but there was too much lawyer in her to agree that the Commission had the authority to do it.*

*Commissioner Burns said he concurred with Commissioner Putterman's statement that Mr. Seddon disassociated. He said he was extremely disappointed that the Commissioners had to deal with it, and felt thrown under the bus to make this decision.*

**VOTE:** *3 – 1 Motion carried. (Commissioner Runbeck Opposed)*

*(Break from 10:50 a.m. to 11:12 a.m.)*

**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**

*None*

**VII. Complaints**

**A. TPC of Scottsdale (BL)/Shane Keranen (APP)/David Doyle (Unlicensed Applicator) - Case No. 2006-055**

**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 Baker.

**VOTE:** 4 – 0 Motion carried.

**B. Angel Rico (Unlicensed Applicator) – Case No. 2006-049**

*Commissioner Burns asked why the school was not addressed. Mr. Craig said the school was put on notice of the licensing and posting concerns. Commissioner Putterman said he was concerned that Mr. Rico was going to pay a \$500 fine, but the school would not be addressed.*

*Commissioner Burns said the School needed to be penalized and added that \$500.00 was pretty cheap. Commissioner Baker asked if the school was the one paying the fine for Mr. Rico. Mr. Craig said yes, and said that was the intention of the school superintendent. Mr. Craig said that Mr. Rico was aware of the need to be licensed and even attended classes. Commissioner Burns asked if there was an intent to address the issues in writing with the school. Mr. Craig said they were sent a letter.*

*Commissioner Putterman said that a complaint should be filed against Dr. McCralley because he was fully aware and acknowledged that he signed a work order. He said he had difficulty with the school district instructing Mr. Rico to apply. Commissioner Runbeck asked if the Commission had the legal basis to do anything with the school. Ms. Gervase said no. Commissioner Burns asked who had the legal authority to go after the School. Ms. Gervase said it was the Board of Education. The Commission's consensus was to refer this case to the Board of Education.*

**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 Baker.*

**VOTE:** 4 – 0 Motion carried.

**C. Kevin Conlin (APP) – Case No. 2006-042**

*Beth Conlin and Kevin Conlin appeared. Commissioner Burns asked if the Commission had the records of the conviction. Mr. Craig said yes; however, the information was obtained after the investigation of the case. Mr. Tolton said the information would be before the Commission after the Commission received the results of the background investigation in the Commission's consideration of Mr. Conlin's renewal application. Commissioner Burns said he did not believe a civil*

*penalty was justifiable and that this became an issue of more education and said he would rather have him spend more time in CEU's than give the Commission \$100.00 dollars.*

*Ms. Vazquez said that as the person who monitors compliance with orders once they've been adjudicated before the Commission, she has seen a pattern of individuals not being able to take the CEUs, and preferring to pay civil penalties.*

*Commissioner Putterman said that they did not need to agree to a settlement conference if they could not attend the CEUs. He said that when people are negotiating CEUs generally they should understand that they have to attend the CEUs before they negotiate them.*

**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 Baker.*

**VOTE:** *4 – 0 Motion carried.*

**D. Phillip Brooks (APP) – Case No. 2006-052**

*Commissioner Burns asked what the nanograms in the lab report actually mean. Commissioner Baker said that it is like putting a drop in a swimming pool and trying to find it. He said technology says you can find it. He said it is so small that it is not worth discussing. He said there are the carrier and the product and in this case the foul odor came from the carrier. Commissioner Burns asked if the company was not included in this because they had nothing to do with this. Mr. Craig said the individual did this at his own residence. Commissioner Putterman asked if Mr. Craig was confident that an hour of CEU would benefit the individual. Mr. Craig said that during the settlement conference, the individual said he did not use gloves because he did not read the label and did not know what amount he applied. Mr. Craig said that was the reason they felt he needed to attend a CEU class.*

**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 Baker.*

**VOTE:** *4 – 0 Motion carried.*

**E. Permaguard Inc. (BL)/Charles Delmar Branson (QP)/Beau Dean Branson (APP) – Case No. 2006-043**

*Commissioner Burns said that the statement that the QP was not active in the management of the company was a broad statement and asked Mr. Craig to clarify. Mr. Craig said that the QP said he would go to the company from time to time and admitted he was not actively involved except for once a month. Commissioner Burns asked what the individual had to do to reactivate the QP then rent it out. Ms. Gervase said that the QP was not active and he would have to go before the Commission. Commissioner Putterman said that it sounded like Mr. Craig covered all of his bases. Commissioner Burns said that if he would reactivate his QP the Commission would not have a basis to deny. He said he was not comfortable with that. Commissioner Putterman said that he did not disagree with Commissioner Burns; however, based on the entire case, he did not feel this was the case and added that he did not want to go after the QP.*

**MOTION:**

*To accept the proposed resolution with the addition that the CE be due within thirty days of the entered date of the Commission Order 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 that a Dismissal letter be issued to the Business Licensee, by Commissioner Putterman.  
Seconded by Commissioner Baker.*

**VOTE:**

*3 – 1 Motion carried. (Commissioner Burns opposed)*

**F. SST Exterminators (BL)/John Saxton, Sr. (QP) – Case No. 2006-029**

*Attorney Tony Behrens was present on behalf of SST Exterminators. Mr. Craig said they could not successfully reach a settlement agreement. Mr. Behrens said that they entered into good faith settlement negotiations. He was not comfortable in staffs' communication and handling of the situation. He said that Mr. Craig assured him that the proposed terms were reviewed up the chain. He said that the proposal was made for an administrative warning, a \$1,000.00 fine and to verify and ensure final grade treatments. He said that they were in the midst of nailing down the details and Mr. Craig unexpectedly notified him that the proposal was withdrawn. He said all of the communication was reflected in e-mails and added that according to Mr. Craig, the renegeing of the settlement, was on account of comparing his client's situation to another company which left it's clients high and dry. He said that did not compare to this case. He said they came to the table in good faith, to resolve the differences. Part of the differences included the interference of client attorney relationship. He said the investigator contacted his client's office and left a message with the receptionist, asking that his client contact him back. He said that was*

contrary to what needed to be done. Mr. Behrens said they would like to proceed with the proposed terms.

Ms Gervase said that once the Commission is aware that there is an attorney involved, then the Commission does not contact the client directly. As an attorney, she is very sensitive about staff following proper protocol to not interfere with the attorney/client relationship. Ms. Gervase said that the intent of the investigator's call to the client's office was to find out if the Attorney was still involved because of the lag time that had passed. Also, Ms. Gervase said that she directed Mr. Craig to withdraw the proposal because she felt that the case had not been fully reviewed. She said she was not comfortable with the proposal and needed the Commission's direction as to parameters. She said it was just a proposal at that point that it was withdrawn, and felt the proposal was not consistent with past similar cases.

Mr. Craig said that he agreed with Ms. Gervase and upon further review of the proposed settlement terms, staff did not feel it was consistent with prior similar cases. Commissioner Putterman said that he has been on the Commission since 1993 and that there have been numerous cases before the Commission in which everything needs to be consistent and it is not fair to the public to give a lenient fine. It's a hazard to consumers and creates an unlevelled playing field when licensees don't do final grades and file TARFs.

Commissioner Burns said that 1,200 final grades and TARFs is not an accident. The final grades still haven't been done. There's probably nothing to be gained by sending it back to settlement conference, and said that he agreed to send it to hearing.

**MOTION:** To send the matter to the Office of Administrative Hearings for not performing the final grades and not filing the TARFs, by Commissioner Putterman.  
Seconded by Commissioner Burns.

**VOTE:** 4 – 0 Motion carried.

**G. Norstar Pest Control (BL)/ Eric Lund (QP/APP) – Case No. 2005-028**

Mr. Lund was present. Commissioner Burns said that Mr. Lund had a history of not renewing his licenses and performing unlicensed work, so why was the Commission negotiating.

Mr. Craig explained the steps that Mr. Lund has taken to get into compliance, including paying thousand of dollars to renew his licenses and having paid the civil penalty for unlicensed activity. Mr. Lund said that he understands the terms of the proposed settlement and what he has to do to comply.

**MOTION:** *To accept the proposed resolution and if the Consent Agreement is executed before June 14, 2007, vacate the hearing. Otherwise, continue with the scheduled hearing, by Commissioner Putterman.  
Seconded by Commissioner Baker.*

**AMENDED MOTION:** *To amend the motion to pay the civil penalties within 90 days rather than 30 days, by Commissioner Putterman.  
Seconded by Commissioner Baker.*

**VOTE ON AMENDMENT:** 3- 1 *Motion carried (Commissioner Burns opposed)*

**VOTE ON MOTION:** 3- 1 *Motion carried (Commissioner Burns opposed)*

#### H. Black Jack Pest Control (BL)/Frank Sanchez (QP/APP) – Case 2006-056

*Commissioner Runbeck asked if there was any indication that Mr. Sanchez did not agree with this. Mr. Craig answered no. Commissioner Burns asked if Mr. Sanchez and Mastercare came in together to request a Temporary QP. Mr. Tolton said yes. Commissioner Burns said this was critical work (in food handling places) and asked if they had a basis to revoke. Ms. Gervase said there was nothing more than an Administrative Warning that the Commission could do against the business licensee. Commissioner Putterman said he could not find where the guy said he would go in and take the license test and said that from a financial standpoint, he did not know what the Commission was gaining. He said that the case involved moral turpitude and if it went to hearing the Commission may not get more.*

**MOTION:** *To accept the proposed resolution with the term that the Civil Penalties are to be paid in 30 days of the entered date of the order, and if the Consent Agreement is not executed by the deadline stated in the Consent Agreement transmittal letter, to send the matter to the Office of Administrative Hearings, by Commissioner Burns.  
Seconded by Commissioner Putterman.*

**VOTE:** 4 – 0 *Motion carried.*

### VIII. Requests for Review or Rehearing or Previous Commission Decisions.

#### A. Mr. Richard Hanley, I Cover Roof Vents, LLC. – Case No. I-2007-018

**MOTION:** *To go into Executive Session to obtain legal advice, by Commissioner Burns.  
Seconded by Commissioner Putterman.*

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

*(Executive Session from 12:25 P.M. to 12:46 P.M.)*

*Commissioner Burns said that based on the statute that covers the activity, it is very broad and under the circumstances of the business and its activity, he felt the Commission should vacate the Cease and Desist Order.*

**MOTION:** To vacate the Cease & Desist Order, by Commissioner Burns.  
Seconded by Commissioner Putterman.

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

*Discussion: The Commission would like to see the issue of the definition addressed at a future meeting.*

**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.**

**A. Eliminex (BL)/ Burghard G. Winter (QP/APP) – Case 1996-010**

*The licensee was issued a civil penalty in 1996, and when it was not paid, the Commission suspended the licenses. The penalty has been paid, removing the basis for the suspensions. The licenses are; however, expired because they were not renewed.*

**MOTION:** To lift the Suspension of the Business, Qualifying Party, and Applicator Licenses and return them to expired statuses, by Commissioner Putterman.  
Seconded by Commissioner Burns.

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

## **XII. Recommended Decision and Orders.**

### **A. Justin Smith – OAH Case 06A-037-SPC / SPCC Case # 2006-037**

*Mr. Smith was present. Ms. Versteegen stated the hearing was held; however, Mr. Smith did not appear at the hearing. The judge recommended the license be revoked.*

*Mr. Smith said he did not appear because he did not receive a certified letter, which was sent to an address he previously resided in. He said this was a serious concern and requested that it be sent back to hearing.*

*Commissioner Runbeck asked Ms. Gervase what the Commission's options were on a procedural basis.*

*Ms. Gervase said she wanted to clarify the address issue. On March 7, 2006, Mr. Smith provided a change of address notice to the same address where the February 21, 2007 Complaint and Notice of Hearing was mailed by Certified Mail. Commissioner Runbeck asked Mr. Smith where he resided. Mr. Smith provided a new address. Commissioner Runbeck asked when he moved. Mr. Smith said approximately a year ago.*

*Ms. Vazquez said the new address was only provided to the Commission on May 25, 2007. She said she had a conversation with Mr. Smith on the 25th and reviewed the case file and found that on March 7th Mr. Smith had changed to the address where the Commission had been sending the notices. Ms. Vazquez said there was never any indication that there was a change of address.*

**MOTION:** *To accept the Findings of Fact and Conclusions of Law, by Commissioner Putterman.  
Seconded by Commissioner Burns.*

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

*Mr. Smith said that he was concerned that the Commission was upset because he did not appear. He said he would have appeared, had he known. He said that when the slap tagging incident occurred he had went home sick, and said that his helper, Mr. Parra went out and slapped tagged the houses without his knowledge.*

*Commission Baker asked if Mr. Smith had proof that he had properly supervised Mr. Parra. Mr. Smith said yes, he did have proof of supervision in the past. He said he never instructed Mr. Parra to do that and added that he was expecting the individual to turn in the keys and clock out for the day. He said that he took full responsibility and said he should have personally gone in and made sure that the truck was returned.*

*Commissioner Putterman asked if that was the statement he made initially. Mr. Smith said no and said he was very scared. He said he shouldn't have lied and repeated that he was not aware of what Mr. Parra was doing. Commissioner Putterman asked how Mr. Parra would know how to slap tag. Mr. Smith said Mr. Parra had previous experience. Ms. Versteegen said that there were severe credibility issues in the stories that Mr. Smith had told. She asked that the Revocation still be imposed.*

*Commissioner Baker questioned how there was a previous settlement conference conducted without Mr. Smith being involved. Mr. Francis said there was a lack of response on Mr. Smith's part and because of the lack of response the Commission was unable to conduct the settlement conference. Mr. Francis said the case had previously gone before the Commission and the Commission voted it to hearing. Commissioner Runbeck said she felt Mr. Smith did not take full responsibility.*

**MOTION:** *To accept the ALJ's Recommended Order to revoke Justin Smith's Applicator license effective on the entered date of the Commission Order, by Commissioner Burns.  
Seconded by Commissioner Putterman.*

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

### **XIII. Settlement Proposals**

*None*

### **XIV. Consideration of Informal Settlement Conference proposed resolutions**

*None*

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

*None*

### **XVI. Applicants with Criminal Convictions**

#### **A. K.C. Cody Vasquez**

*Mr. Vasquez appeared. His supervisor, Ken Romero, of the Groundskeeper, was with him earlier in the meeting, but had to leave. Commissioner Runbeck said that because the incident was not too old, her biggest concern was that there appeared to be anger management issues. Mr. Vasquez said that he went through 160 hours of counseling, attended all of the weekly meetings, and was clean on all of the drug testing results He said he has an undesignated felony, and does not have prior criminal history. He admitted to making a poor decision. He said he enjoys what he*

*does and loves his job. He said he has not had any further legal issues. He submitted letters to the Commission, which were provided by the probation officer and the counseling officer.*

**MOTION:** *To approve by Commissioner Putterman,  
Seconded by Commissioner Baker.*

**VOTE:** *4 – 0 Motion carried.*

**B. Mark Van Osdel**

*Mr. Van Osdel not present. Mr. Tolton said certified notice to Mr. VanOsdel was returned to the Commission as unclaimed.*

*Tabled.*

**C. Elvis Estrada**

*Mr. Estrada appeared with his supervisor, Greg Long. Mr. Estrada said he is off of probation. On the second issue he did one year and a half in Prison in Tucson. He was let out early for good behavior. He completed all his terms successfully. Mr. Long said he has been a supervisor for 19 years, and said Mr. Estrada was a responsible young man, had received his high school diploma, and was taking college level courses. Commissioner Burns asked about the 2006 charge. Mr. Estrada said he and his friends were out partying and went out to buy beer. He was driving while his friend stole the beer, and because he was driving he was charged.*

**MOTION:** *To offer a Consent Agreement to place Mr. Estrada on probation for three years, and upon passing the exams for the weed and turf/ornamental categories, issued a license in those B3 and B5 categories. But, that Mr. Estrada is required to go before the Commission for review again before broadening into another category, by Commissioner Burns.  
Seconded by Commissioner Baker.*

**VOTE:** *4 – 0 Motion carried.*

*Discussion: Commissioner Runbeck asked Mr. Estrada if he understood the proposed terms and agreed. Mr. Estrada said he was okay with that.*

## **XVII. Commission Updates**

- A.** University Termite and Pest Control, Inc. (BL)/Richard Rupkey, II (QP) – Case No. 2005-069 – Commission’s consideration of compliance with consent agreement and order, entered on 2/9/07.

*Attorney Scott Richardson, Rick Rupkey, Sr., and Rick Rupkey, II were present. Mr. Richardson said that Jack Root interviewed everyone involved and others in the industry to obtain information to write his consultant report of how these licensees can be cooperative and compliant in the future. Mr. Root attempted to e-mail his preliminary report, but had difficulty. He asked that the final report be on the next agenda. Mr. Richardson said he provided copies of the letter to the Commission. Ms. Gervase said there also were five outstanding issues that were outlined and sent to the Commissioners and the licensees that staff needed the Commission’s decision as to whether there was compliance with the terms of the order.*

*There are terms of the old 2003 cases that, under the 2005 order, still needed compliance. One term required the QP to accompany every pretreat applicator that worked for the company to ensure compliance. The Commission did not receive proof that the QP did accompany the applicators one full day on quarterly basis. The Commission received a company ride along policy only. Mr. Root’s letter was suggesting that in addition to the company policy, that the company provide a company status log.*

*Mr. Richardson said that he felt that what Mr. Root was saying was that now they had the law they could submit the log. The deadline for compliance with this item was supposed to be the deadline in the 2003 order. Mr. Richardson said he felt the Commission should address the issues the next month, when Mr. Root was available. Commissioner Runbeck said that she agreed the Commission should have the complete information. Ms. Gervase said that the five items were just addressing where they were. Commissioner Burns said that he is comfortable with waiting for Mr. Root’s complete report next month. Commissioner Runbeck said she agreed with Commissioner Burns. Ms. Gervase said Mr. Richardson told her that when Mr. Root submits his report he would provide the documentation of compliance along with his report. Mr. Richardson said he would try to get Mr. Root to submit everything within 10 days. Mr. Rupkey asked that his appearance at the upcoming July meeting serve as his attendance for the August meeting.*

- B.** Commission Training (previous handout on 2/9/07)

*TABLED.*

**C. Legal Advice regarding A.R.S. § 32-2356(6) as to whether a “salesperson” is required to be licensed, and if so, when.**

*Ms. Versteegen said that it did not matter what they are called, but what it was that they did. Commissioner Putterman asked if someone is a salesperson do they need to be licensed. Mr. Bob Hartley appeared and said that the contention in the past had been that a salesperson was not considered to be required to obtain a license because they were only selling pest control work, not handling pesticides or inspecting or anything else. He said that what started happening was the issue of people giving advice. He said that covered the entire company, and basically anyone covering the phone could be considered to be giving advice. He said the intent of the whole process was to address people giving advice. The concern is people handling pesticides. He said another concern was that general pest control sales people have a huge turnover. Commissioner Burns said there’s no difference between going to a site versus being on the phone and giving a price. Salespeople that go out to a site to give an estimate do not handle pesticides. A licensed applicator is ultimately the person doing the work. Commissioner Runbeck said that as a consumer if she called a company and that person goes out and identifies, she would assume that they were licensed.*

*Commissioner Burns said she was wrong in thinking that there would be no difference. Ms. Gervase said that she feels that this may be more of an area that the Commission has to create a policy rather than obtain a legal opinion.*

*Commissioner Runbeck asked if there have been problems with people not being licensed. Mr. Craig said that there have only been two cases. One where staff believed a license was required based on the activities of the “salesperson” and one where staff did not believe a license was required because the salesperson was not making inspections or identifying infestations, etc. Mr. Tolton clarified that when reviewing QP license applications, it doesn’t matter what title a person held, but was tasks they performed in determining practical experience.*

*Ms. Versteegen felt the law was clear and that this was a policy decision for the Commission to make. Ms. Gervase asked if the Commission could provide a draft so that staff had something to go by. Commissioner Burns and Commissioner Putterman offered to provide a draft policy statement for a future agenda. Commissioner Hartley also agreed to provide input.*

**D. Complaint status log.**

*In materials. No questions*

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

*Commissioner Baker asked about the pass rates. He said that if you have two people taking the test and one passes, that doesn’t exactly give a correct*

percentage. Commissioner Baker asked if they are testing to find out what they know or what they do not know. Mr. Francis said that the object is to find out what they do know. As time permits, exam questions are edited for clarification. He also went through every test to make any necessary modifications per the new rules changes.

Commissioner Baker said the numbers were concerning. Mr. Francis said that the issue is that the applicators usually do not study. The second time around the percentage goes up. Commissioner Baker suggested seeing if we have statistics on the average pass rate of first-time takers and the average of second-time takers.

**F. Expenditure report**

*In materials. No questions.*

**G. Case Status Report**

*Case Status report was handed out, and Ms. Gervase mentioned the status of the civil suits, that also are on the case status report.*

**XVIII. Approval of the minutes.**

**A. May 11, 2007 (regular session) Minutes**

*Tabled*

**B. May 11, 2007, (Executive session) Minutes**

*Tabled*

**C. Continuing Education Program Applicants**

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

**VOTE:** *4– 0 Motion carried.*

**XIX. Future meetings**

*July 13, 2007  
August 10, 2007  
September 14, 2007  
October 12, 2007  
November 9, 2007  
December 14, 2007*

*January 11, 2008  
February 8, 2008  
March 14, 2008*

**XX.** Adjournment

**MOTION:**

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

**VOTE:**

*4 – 0 Motion carried.*

*Meeting ended: 1:53 P.M.*