



STATE OF ARIZONA

Structural Pest Control Commission

9535 E. Doubletree Ranch Road
Scottsdale, Arizona 85258-5514
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Janet Napolitano
Governor

Vince Craig
Interim Executive

NOTICE OF COMMISSION MEETING FRIDAY, May 9, 2008, 9:00 A.M.

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

FIRST AMENDED AGENDA

VII. Complaints: (Mr. Craig)

Licensees: The Commission may discuss, consider and take action on any matter below. The Commission's action may include those set forth in A.R.S. § 32-2321(A), such as an administrative warning, civil penalty up to \$1,000.00 per violation, probation requirements, suspension or revocation. This action may be taken pursuant to a Consent Agreement or a matter may be sent to a Formal Hearing. The Commission may issue an advisory notice pursuant to A.R.S. § 32-2321 (N). A matter also may be continued for further investigation, further settlement negotiations, or dismissed.

If a Consent Agreement is not executed by the deadline stated in the Consent Agreement Transmittal letter, the case will be sent to the Office of Administrative Hearings.

Unlicensed: The Commission may discuss, consider and take action on any matter below. The Commission may issue a Cease and Desist order and/or impose a civil penalty of up to \$1,000.00 for the first offense and up to \$2,000.00 for a subsequent offense, according to A.R.S. § 32-2304(B)(16) for unlicensed activity involving other than weed control. For unlicensed activity involving weed control, the Commission may issue a written notice of correction for the first violation, impose a civil penalty of up to \$250.00 for the second violation, and impose a civil penalty of up to \$500.00 for the third or subsequent violation, according to A.R.S. § 32-2311(C). Action may be taken by Direct Commission Order without a Consent Agreement or Formal Hearing. A matter also may be continued for further investigation, further settlement negotiations, or dismissed.

**A. TACIT SERVICES, LLC. (BL)/ JOHN MCCLURE (QP)/ EDWARD HUNT (APP) –
Case No. 2007-056**

This complaint, stemming from the SPCC, contains allegations that on 8-9-07, Edward Hunt failed to apply the correct amount of termiticide when he performed a pretreatment for a post tension monolithic slab in Casa Grande, Arizona. The pretreatment site shorted required 208.38 gallons. However, Mr. Hunt shorted the site by 28.38 gallons. While only one site was shorted, SPCC staff observed him treat two slabs wearing shorts and a tee shirt. Mr. Hunt recorded on the pretreatment tag that he performed the treatment from 4:30 p.m. to 5:10 p.m. However, SPCC staff noted that he did not even arrive at the site until 5:03 p.m. Mr. Hunt's applicator license expired in 5-31-06 and his qualifying party license expired in 12-06; he was hired by Tacit in 6-07. Therefore, the business licensee was required to provide immediate supervision. While the business licensee did provide documents of training, the documents do not establish that Mr. Hunt was instructed how to properly measure, apply termiticide or that he understood. No documentation was submitted explaining why Mr. Hunt was allowed to perform the pretreatments without immediate supervision.

Staff's recommends the Commission send this matter to Settlement Conference to offer a Consent Agreement with the following terms, and if the Consent Agreement is not executed, that the matter go to formal hearing:

1. That Tacit Services, LLC, BUS LIC #8123 be issued an **Administrative Warning** pursuant to A.R.S. § 32-2321(A) (Disciplinary action) for a violation of A.R.S. § 32-2321(B)(1) (Violating rules), via A.A.C. R4-29-305(C) (Applicator shorted the site by 28.38 gallons), due to A.R.S. 32-2308(A) (Joint Responsibility) and issue an **Advisory Notice** for a violation of A.R.S. 32-2325(5)(A)(B) and A.A.C. R4-29-601 (A) (Applicator applied pesticides for the control of wood-destroying insects without being an applicator in the B2 category or being under immediate supervision).
2. That John McClure, QP LIC #8118 be issued an **Administrative Warning and obtain 3 hours of continuing education (separate from that required for license renewal) in the category of Qualifying Party Responsibilities or Laws (due within 30 days of the entered date of the Commission Order)** pursuant to A.R.S. § 32-2321(A) (Disciplinary action) for a violation of A.R.S. § 32-2321(B)(1) (Violating rules), via A.A.C. R4-29-305(C) (Applicator shorted the site by 28.38 gallons), due to A.R.S. 32-2308(A) (Joint Responsibility) and issue an **Advisory Notice** for violation of A.A.C. R4-29-502(B)(D) (The qualifying party licensee failed to provide immediate supervision, which requires supervision by a licensed applicator who is physically present, when an unlicensed applicator applies a pesticide for wood-destroying insect control);
3. That Edward Hunt, APP LIC # be issued an **Administrative Warning, pay a \$400.00 Civil Penalty, and obtain 3 additional hours of continuing education (separate from that required for license renewal) in the topics of Safety, Labels and Laws (due within 30 days of the entered date of the**

Commission Order) pursuant to A.R.S. § 32-2321(A) (Disciplinary action) for a violation of A.R.S. § 32-2321(B)(1) (Violating laws/rules), via A.R.S. § 32-2325(4) (Applicator applied pesticides without holding an applicator license), A.R.S. § 32-2325(5)(A)(B) (Applicator applied pesticides for the control of wood-destroying insects without being an applicator in the B2 category or being under immediate supervision and without evidence of the 5 hours of instructions specific to termite pretreatments), A.R.S. § 32-2321(4) and A.A.C. R4-29-202(B) (Applicator applied pesticides in a manner that could cause harm to himself because he failed to wear PPE as required by label directions), A.A.C. R4-29-305 (Applicator failed to apply correct gallons of termiticide), A.A.C. R4-29-307(A) (Applicator recorded 4:30 p.m. to 5:10 p.m., rather than the actual times of 5:03 p.m. to 5:07 p.m.)

B. RAYMOND SARNOCINSKI (APP) – Case No. 100000

This complaint, stemming from the SPCC, contains allegations that on 12-19-07, an SPCC inspector observed Raymond Sarnocinski apply pesticides at a home in Tucson, Arizona. The inspector completed a Use Inspection Report. The report indicated that Mr. Sarnocinski applied 2 gallons of Malathion pesticide prior to being questioned by the SPCC inspector. The service was for general pest control and the equipment was a 50-gallon tank. Mr. Sarnocinski's business license was revoked due to non-payment of renewal fees. His qualifying party's license was inactive. Therefore, he should not have been performing pest control work. After a complaint was filed, Mr. Sarnocinski submitted a written response stating that he never applied any pesticide because the pump to his tank was not working. However, he signed a Use Inspection report stating otherwise. Additionally, the definition of structural pest control is not only performing the actual act but also holding oneself out to perform the work. Mr. Sarnocinski did both.

Staff's recommends the Commission send this matter to Settlement Conference to offer a Consent Agreement with the following terms, and if the Consent Agreement is not executed, that the matter go to formal hearing:

1. That Raymond Sarnocinski, APP LIC #760877 be issued an Administrative Warning, pay a \$500.00 Civil Penalty and obtain 3 hours of continuing education (separate from that required for license renewal) in the category of Qualifying Party Responsibilities or Laws (due within 30 days of the entered date of the Commission Order), pursuant to A.R.S. § 32-2321(A) (Disciplinary action) for a violation of A.R.S. § 32-2321(B)(1)(2) (Violating laws/rules), via A.R.S. § 32-2325(1) (Performing pest control work without a business license or valid qualifying party license).

C. CHRISTOPHER RENTERIA (APP) – Case No. 2007-060

This complaint, stemming from SPCC tag monitors, contains allegations that in 10-07 Christopher Renteria applied termiticide to three floating slabs, shorting them by 155.8 gallons, 156.4 gallons and 84 gallons respectively. Mr. Renteria passed his termite examination to be licensed in the B2 category in 1994. However, on 9-17-07 (one month before the violation) he signed a document presented by his employer, which indicated that

he received training on labels proper application rates and measurements. On 11-6-07, Mr. Renteria's employer allowed him to correct the shortages by applying borates to the structure in a manner consistent with a New Construction Treatment, thus potentially eliminating potential economic harm. On 12-3-07, the SPCC filed a complaint against Mr. Renteria.

Staff's recommends the Commission perform the following:

1. That Christopher Renteria be issued an Advisory Notice pursuant to A.R.S. § 32-2321(A) (Disciplinary action) for a violation of A.R.S. § 32-2321(B)(1) (Violating rules), via A.A.C. R4-29-305(C) (Failed to apply proper quantity of termiticide).

XVI. Applicants with Criminal Convictions: (Mr. Tolton)

- I. [Michael Geibel](#)

XVII. Commission Updates and Reports; Miscellaneous Action Items.

- G. Commission's review, discussion and possible action on detailed expenditure report: (Mr.Craig) (Separate Handout)