

MINUTES OF THE  
ANNUAL MEETING OF THE  
STRUCTURAL PEST CONTROL BOARD  
OCTOBER 11 AND 12, 2007

The meeting was held on Thursday and Friday, October 11 and 12, 2007, at the Doubletree Guests Suites, 2085 S. Harbor Blvd., Anaheim, California, commencing at 1:00 PM with the following members constituting a quorum:

Jean Melton, President  
Mustapha Sesay, Vice President  
Cris Arzate (arrived at 1:08 PM)  
Terrel Combs-Feirrer  
Bill Morris (October 12 only)  
Cliff Utley

Board staff present:

Kelli Okuma, Executive Officer  
Susan Saylor, Assistant Executive Officer  
Carl Smitley, Enforcement Coordinator (October 12 only)  
Ryan Vaughn, Administration Analyst

Departmental staff present:

Kurt Heppler, Legal Counsel

Board Liaison Deputy Attorney General Christina Thomas was also in attendance.

**I. ROLL CALL**

Ms. Saylor read the roll call.

**II. REINSTATEMENT HEARINGS**

The Board sat with Administrative Law Judge Daniel Juarez and Deputy Attorney General Christina Thomas to hear the Petition for Reinstatement of James Addison, Applicator's License No. RA 40953, Benjamin Kahner, Field Representative's License No. FR 22668, and Patrick Laurenzano, Operator's License No. OPR 7863. The petitioners were informed that they would be notified by mail of the Board's decision.

### **III. CLOSED SESSION**

The Board adjourned to closed session to consider proposed disciplinary actions in accordance with subdivision (c)(3) of Section 11126 of the Government Code.

The meeting recessed at 4:45 PM.

The meeting reconvened Friday, October 12, 2007 at 9:00 AM.

### **IV. ROLL CALL/FLAG SALUTE**

Mr. Utley led everyone in the flag salute.

### **V. APPROVAL OF MINUTES OF THE JULY 20, 2007, BOARD MEETING**

Ms. Combs-Ferreira moved and Mr. Sesay seconded to approve the minutes of the special meeting of July 20, 2007. Passed unanimously.

### **VI. EXECUTIVE OFFICER'S REPORT**

Ms. Okuma reported on the following:

- New Board specialist Timothy Ford was introduced who will be working in Southern California. Mr. Ford has met with Board staff for administrative procedures and is currently undergoing in-field training with Board specialists.
- Ms. Melton and Ms. Okuma attended the Association of Structural Pest Control Regulatory Officials (ASPCRO) Annual Meeting in August. Ms. Melton attended at her own expense. The meeting discussed Environmental Protection Agency (EPA) updates, the certification program, labeling issues, container recycling, mosquito misting, the regulation of termiticides, and wood treatment issues with the focus being on borates.
- Board specialists have been working to make sure that Branch 3 companies are filing their wood destroying organism (WDO) reports with the Board.
- Legislative Bills were reviewed with the Board members.
  - Assembly Bill 1717 was approved which will require Branch 2 and 3 companies and their qualifying managers to annually register with each county in which the company performs work. The bill grants the County Agricultural Commissioner's offices the authority to assess civil penalties for no compliance. Branch 1 companies are also required to register annually and must provide at least 24 hours notice prior to performing a fumigation.
  - Senate Bill 1047 was approved which provides several cleanup amendments to the Structural Pest Control Act. The major amendment affects Business and Professions Code Section 8610, which limits the number of companies a qualifying manager may qualify to two. Qualifying managers that are

currently qualifying more than two companies must comply with the statute by January 1, 2010.

The following bills have yet to be acted upon:

- Assembly Bill 1025 addresses the subject of issuing licenses to persons with criminal convictions.
  - Assembly Bill 1135 would require Department head signatures on legislative reports.
  - Assembly Bill 1393 would require that information relative to public records be posted on each agency's website.
  - Assembly Bill 1477 is a trapping bill and would not directly affect the structural pest control industry.
  - Assembly Bill 126 would include Santa Clara County in the structural fumigation program.
- Complaint survey results were reviewed with the Board members.

Mr. Morris asked if the Board had taken a position on Assembly Bill 1025.

Mr. Heppler responded that the Department of Consumer Affairs (DCA) has taken a position of opposition to the bill.

Ms. Saylor reported on the following:

- Licensing statistics, survey results, and the Regulatory Action Status were reviewed with the Board members.

Mr. Morris asked if there was any reason to be concerned that the passing rate for Applicators has increased since last year. He questioned the last time the examination was updated.

Ms. Okuma responded that the Applicator test had been compromised causing a new examination to be recently distributed to each county. One possible explanation for the increased passing rate is that as the pest control industry has slowed, only the best candidates are taking the examination.

- The individual responsible for the March 2006 break-in at the Board's office mailroom has been arrested and sentenced to four years for identity theft.
- New Branch 3 examinations for Field Representatives and Operators will be administered starting October 2007. The examination will be updated every four months to ensure an accurate examination.
- The Board's Office Services Supervisor in the Licensing Unit has accepted a position at the Medical Board. Interviews for his replacement have been completed and the position should be filled by the end of October.
- Ila Kopp of the Enforcement and Complaint Unit has accepted a position at the Department of Corrections after working for the Board for approximately 16 years. Recruitment for the vacancy will begin shortly.
- The rulemaking file, which resulted from the July public hearing, has been submitted to DCA for review.

Mr. Morris asked for clarification of the statistic cited in the Board package that stated that only 2.3% of continuing education course attendees are submitting course evaluations.

Ms. Okuma responded that the Board has no authority to compel licensees to submit evaluation cards, but providers may not be supplying the evaluation cards to the students for completion.

John Van Hooser, Van Hooser Enterprises Inc., stated that he was on the Continuing Education Committee when the evaluation requirement was put into regulation. He believes that the regulation is not working and that it should be repealed.

Ms. Okuma responded that the issue would be put on the agenda at the January Board meeting.

Mr. Morris asked if Board members are provided with final reports from the research projects that the Board funds.

Ms. Okuma responded that the Board receives quarterly updates that are provided at each Board meeting and that past research projects have been available to the Board as well as any other interested parties.

## **VII. PROPOSED AMENDMENT OF BOARD PROCEDURE NO. E-2 TO UPDATE THE REPORT OF FINDINGS COVER LETTER FORMAT**

Ms. Okuma reported that procedure E-2 establishes guidelines internally for processing inspections and assessing inspection fees when specialists determine that violations have occurred. The Board is being asked to approve some clean-up amendments to the Notice.

Mr. Heppler corrected a typo replacing “Rules and/or Rules and Regulations” with “Rules and/or Regulations.”

Mr. Utley moved and Mr. Sesay seconded to approve the proposed amendments.

Mr. Morris suggested taking out “instant” in the phrase “instant complaint case.”

Mr. Smitley agreed that the word “instant” could be removed.

Ms. Melton suggested allowing the Board’s legal counsel to revisit the procedures to prepare for the Board’s approval at the next Board meeting.

Mr. Van Hooser stated that the current 20-day requirement to request an administrative hearing should be much longer. He stated that it is often difficult to resolve issues found in the Report of Findings with the consumer in the 20 days.

Mr. Heppler responded that the 20-day notice requirement is in the Board’s statutes thus would require a legislative amendment.

Mr. Heppler stated that the Board's Legal Counsel would review the procedures with the Board's statutes and report back at the next Board meeting.

### **VIII. ANNUAL REVIEW OF BOARD PROCEDURES**

Ms. Okuma stated that the Board Procedures are reviewed at the Annual Meeting. She asked if there were any proposed amendments or suggestions for repealing any procedures.

Mr. Morris asked for an explanation of the amendment that occurred in October 2006 concerning procedure G-4 – Election of Officers.

Ms. Okuma responded that the amendment moved the election of officers from the July meeting to the October meeting.

Mr. Morris cited procedure G-5 in which it states that Board minutes shall be provided to the Board within 30 days. He suggested that the minutes be made available sooner than 30 days. Mr. Morris asked if the charge of 10 cents per page as stated in procedure G-6 should be increased, as it has not been amended since October 2002.

Ms. Okuma responded that the Board follows DCA's guidelines and the charge per page is still 10 cents per page.

Mr. Heppler commented that the phone number for the Office of Administrative Services listed in procedure G-6 is incorrect.

Ms. Okuma responded that she believed that the Office of Administrative Services has been renamed so Board staff will correct the procedure with the correct name and phone number.

Mr. Morris stated that the Board Procedures is a very valuable tool that should be made available to new Board members.

Ms. Okuma responded that the Board's Procedures are distributed to new Board members.

Mr. Sesay moved and Mr. Utey seconded to approve the proposed amendment to correct procedure G-6 to reflect the correct name and phone number of the Office of Administrative Services. Passed unanimously.

### **IX. RESEARCH ADVISORY PANEL RECOMMENDATIONS TO APPROVE RESEARCH PROPOSAL(S)**

Ms. Okuma introduced Research Advisory Panel member Michael Lawton to report on the panel's recommendations from the October 4, 2007, meeting.

Mr. Lawton, Western Exterminator Company, reported that the panel reviewed three research proposals, one from Dr. Vernard Lewis of the University of California Berkeley, one from Dr. Michael Rust of the University of California Riverside, and one from Dr. John Klotz of the University of California Riverside. The panel requested some changes to the proposals and as a result of the changes, all three projects could be funded by the Board's research fund.

- Dr. Klotz's project objective is to find the most effective and least toxic methods for controlling argentine ants. He will also be looking at methods that will promote less pesticide runoff.
- Dr. Lewis's project will study subject chemicals and their treatment of drywood termites. The project will be performed in the field.
- Dr. Rust's project will be a laboratory study on the efficacy of insecticides for the treatment of drywood termites.

Mr. Lawton reported that the Research Advisory Panel recommends that the Board approve all three projects.

Mr. Arzate commented that as a public member of the panel, he was very impressed with the analysis and thoughtfulness of the panel in working with the researchers.

Mr. Sesay moved and Ms. Combs-Ferreira seconded to approve the Research Advisory Panel's recommendations of the proposed research projects. Passed unanimously.

Dr. Lewis wished to thank the Board, the Research Advisory Panel, and the pest control industry.

## **X. DEPARTMENT OF PESTICIDE REGULATION UPDATE**

Peggy Byerly, Department of Pesticide Regulation (DPR), reported on the following:

- Nan Gorder has been named as DPR Enforcement Branch Chief.
- DPR is continuing its respirator training for the new respiratory regulations that go into effect January 2008. A policy letter is being developed for the Agricultural Commissioner's Offices. DPR's website will have documents available for licensees and companies concerning the new regulations.
- Concerning AB 1717, DPR is developing a policy letter and will be working with the Board in putting together a mailer for structural licensees and companies.
- Concerning AB 126, Santa Clara County has been familiarized with the structural fumigation program, which they will be a part of once the bill is approved.
- Vikane at 1 part per million should be registered by November or December. The Zythor label is currently in the revision process. The Masterfume new label is in the

registration process. Masterfume’s agricultural label was recently returned for insufficient data or insufficient information.

Michael Cartwright, Cartwright Termite and Pest Control Inc., asked if Ms. Byerly felt that methyl iodide would be brought into structural pest control.

Ms. Byerly responded that since the product is relatively new to California, methyl iodide’s use in structural treatments is unclear but she stated that DPR could report back at a future Board meeting update.

## **XI. WATER QUALITY COMMITTEE RECOMMENDATIONS**

Ms. Okuma reported that the Board appointed the Water Quality Committee to examine pesticides and water quality concerns. The committee made a recommendation to require that Integrated Pest Management (IPM) be made part of the continuing education requirements for license renewal. Another recommendation was to work with DPR in determining a definition of structural IPM. The committee also recommended modifying the pre-license training and examinations to include water quality and IPM education. The final recommendation was to modify California Code of Regulations (CCR) Section 1999.5 to allow for truthful, substantiated, and non-misleading claims. In response to these recommendations, the Board appointed two task forces: the IPM Task Force and the 1999.5 Task Force. The next two agenda items are recommendations for the Board to take action. Once the Board takes action, the Board can then take action on the remaining recommendations of the Water Quality Committee.

## **XII. IPM TASK FORCE RECOMMENDATIONS AND CONSIDERATION OF PROPOSAL TO DEFINE STRUCTURAL INTEGRATED PEST MANAGEMENT AND DEVELOP IPM CERTIFICATION PROGRAM**

Michael Katz, Western Exterminator Company and Chair of the IPM and 1999.5 Task Forces, presented the IPM Task Forces recommendations to define the terms “integrated pest management” and “intervention” in regulation and for the Board to develop a statewide certification program for individuals and companies that practice IPM.

Ms. Okuma reported that letters of recommendation had been received from the County of Sacramento and the California Storm Water Quality Association.

Mr. Morris moved and Mr. Sesay seconded to approve the IPM Task Force recommendations to notice for public hearing for the January Board meeting the definition of Integrated Pest Management –

“Structural integrated pest management (IPM) means a systematic decision making approach to managing pests, which focuses on long-term prevention or suppression with minimal impact on human health, property, the environment, and non-target organisms. Structural IPM incorporates all reasonable measures to prevent pest

problems by properly identifying pests, monitoring population dynamics, and using cultural, physical, biological or chemical pest population control measures to reduce pests to acceptable levels. If a pesticide application or other intervention is determined to be necessary, the selection and application of the intervention shall be performed in a manner that minimizes risk to people, property, the environment, and non-target organisms, while providing effective pest management.”

and the definition of Intervention –

“For the purposes of this section, intervention means an action, device, product or practice that is intended for the prevention, control, management, elimination or abatement of a pest.”

and to approve the recommendation to develop and adopt an IPM certification program administered by the Board, created with broad based and balance input, with established standard and a continuing education component.

Mr. Heppler stated his concern with proceeding with the recommendation of the statewide IPM certification program. It has yet to be determined if the certification program would be administered by Board staff and funds or if the Board will rely on an accreditation agency.

Mr. Katz commented that the pest control industry would like the Board to have a major role in the certification program whether it is done internally or through a certification agency.

Ms. Okuma recommended that the Board take action on the recommendations separately. The definitions of IPM and intervention could be approved for public hearing but the details of a certification program would require additional information to be prepared by Board staff.

Mr. Heppler suggested holding off on moving for a public hearing until the details of the certification program are formulated.

Robert Baker, Clark Pest Control, responded that the definition of IPM is necessary for the development of the continuing education component and that the Board should not hold off on the public hearing. For the certification program, he suggested using the United States Department of Agriculture’s (USDA) organic certification program as a model.

Passed unanimously.

Mr. Sesay commended Mr. Katz and the committee for their hard work in formulating their recommendations.



### **XIII. 1999.5 TASK FORCE RECOMMENDATIONS AND CONSIDERATION OF PROPOSAL TO AMEND SECTION 1999.5 OF THE BOARD'S REGULATIONS**

Mr. Katz reported that the 1999.5 Task Force was organized in response to the concern that the current regulation prevented companies from advertising non-misleading claims about environmentally superior pest control services. The 1999.5 Task Force developed an introductory statement to describe the intent of the regulation. Also developed was a guidance document, which will include examples of claims that are permitted or prohibited by the Board.

Mr. Arzate moved and Ms. Combs-Ferreira seconded to notice for public hearing for the January Board meeting the following recommended amendments to 1999.5.

#### **§1999.5. False and Misleading Advertising**

It is the purpose of this regulation to protect the public from false, misleading, deceptive, or unfair representations or claims concerning structural pest control while enabling the public to receive truthful and legitimate information about those structural pest control products and services and their potential to reduce impact to health or the environment.

(a) It is unlawful for any licensee, or any employee thereof, directly or indirectly to make, disseminate, represent, claim, state, or advertise, or cause to be made, disseminated, represented, claimed, stated or advertised by any manner or means whatever, any statement or representation concerning structural pest control, as defined in Business and Professions Code section 8505, which is unfair, deceptive, untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be unfair, deceptive, untrue or misleading.

(b) As used in this section, the terms "make," "disseminate," "represent," "claim," "state," or "advertise" and any of their variants include, but are not limited to any print communications (for example, telephone directories, newspapers, magazines or other publications or books, notices, circulars, pamphlets, letters, handbills, posters, bills, signs, placards, cards, labels, tags, vehicle or equipment signage, window displays, or store signs), electronic communication (for example, radio, television, audio or video tape, telephone, or the Internet), demonstration, direct person-to-person contact, or other means or methods now or hereafter employed to bring structural pest control services, methods, products, pesticides, or devices to the attention of the public: for the purpose of requesting any work or services or for the direct or indirect purpose of performing or offering to perform services for which a license is required by section 8500 and following of the Code.

(c) As used in this section "the exercise of reasonable care" includes a duty to investigate the basis of any statement or representation to assure that the statement or representation is not unfair, deceptive, untrue or misleading. The making of a statement or representation without knowledge of its truthfulness breaches the duty to investigate.

(d) Violation of this section occurs at the time an unfair, deceptive, untrue or misleading statement or representation is made. Once a violation occurs, subsequent disclosures, caveats, disclaimers, or waivers cannot eliminate it.

(e) The remedies or penalties provided by this section are cumulative to each other and to the remedies or penalties available under all other laws and regulations of this State.

(f) Examples of direct or indirect statements or representations which are unfair,

deceptive, untrue or misleading include, but are not limited to, the following:

(1) any advertising in violation of Business and Professions Code sections 17200, and 17500;

(2) any statement or representation that misrepresents or fails to disclose an important or necessary fact about a pest control service, method, product, pesticide or device;

(3) any unfair, deceptive, untrue or misleading statement or representation about the effects of a pest control service, method, product or device;

(4) any expressed or implied statement or representation that one or a combination of pest control services, methods, products, pesticides, or devices is an alternative or substitute for, is comparable to, or is better than any other pest control service, method, product, pesticide, device, or combination thereof, if what is being compared provides different treatment coverage of a structure, including but not limited to differences in the extent that accessible and inaccessible areas can ~~reasonable~~ reasonably be treated, unless said differences in treatment coverage are clearly and conspicuously stated. This subsection shall only apply to Branch 3 activities;

(5) any representation that a service, method, product, pesticide, or device, or combination thereof, ~~that is not designed~~ intended to treat ~~all potentially~~ infested wood in a structure, ~~both accessible and inaccessible~~ will be used to treat an entire structure for target pests if the service, method, product, pesticide, or device or combination thereof is not capable of treating all potentially infested wood in a structure including inaccessible areas. This subsection shall only apply to Branch 3 activities;

(6) any statement or representation that a pest control service, product, pesticide, or device or combination thereof offers a general environmental protection or benefit unless the statement or representation can be substantiated within the meaning of 16 CFR, 260.5 and is limited to the specific nature of the environmental or health benefit being asserted. ~~or that the pest control products, pesticides, or devices the licensee uses, the applications of such products, pesticides, or devices, or any of them, are “among the least toxic chemicals known,” “relatively non-toxic,” “pollution approved,” “environmentally aware,” “environmentally sensitive,” “environmentally preferable,” “environmentally benign,” or “contains all natural ingredients”;~~

(7) any unfair, deceptive, untrue or misleading statement concerning the composition of a pest control service, method, product, pesticide or device;

(8) any unfair, deceptive, untrue or misleading statement concerning the effectiveness of a pest control service, method, product, pesticide or device;

(9) any unfair, deceptive, untrue or misleading statement about the value of a pest control product for purposes other than as a pesticide or pest control device;

(10) any unfair, deceptive, untrue or misleading comparison of pest control services, methods, products, pesticides or devices;

(11) any statement or representation that a pesticide or device is certified, sponsored, recommended, endorsed, or approved by any agency of the Federal Government or the State of California, including but not limited to, “tested by the Department of the Interior,” “EPA approved,” “EPA registered,” “approved by the Structural Pest Control Board,” or “recommended by the Structural Pest Control Board,” except that a statement or representation of this type is permissible if specifically authorized by the Federal or State agency to which it refers.

(12) a statement which is literally true but is used in such a way as to give an unfair, deceptive, untrue or misleading impression to the consumer;

~~(13) claims as to the safety of that a pesticide application, a pesticide or pesticide ingredients are safe, including statements such as “safe,” “nonpoisonous,” “non-injurious,” “harmless” or “nontoxic to humans and pest pets” with or without such a qualifying phrase as “when used as directed”;~~

~~(14) claims that the pesticides and other substances the licensee applies, the application of such pesticides, or any other use of them are comparatively safe or free from risk of harm;~~

~~(15) (14) claims regarding services and products for which the licensee does not have substantiation in the form of tests, analysis, research, studies, or other evidence that was conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted by others in the profession or science to yield accurate and reliable results; and~~

~~(16) (15) any statement or representation concerning structural pest control that is conditioned or subject to any requirement, condition, limitation, disclaimer or waiver, that is not immediately followed by a clear and conspicuous statement of said requirement, condition, limitation, disclaimer or waiver.~~

Mr. Heppler suggested holding off on approving the guidance document until CCR section 1999.5 is amended. Should the Office of Administrative Law (OAL) not approve the proposed amendment, the guidance document should not be distributed.

Mr. Katz responded that it was not the task force’s intent to have the document available until after the regulation change.

Dominic Grisafe, Cliff’s Pest Control Inc., suggested including the Environmental Protection Agency’s (EPA) list of reduced risk products in the regulation.

Mr. Katz responded that the list of reduced risk products could be included in the guidance document. The guidance document will be an ever-changing document, which will not require the regulatory process to amend.

Passed unanimously.

## **XI. WATER QUALITY COMMITTEE RECOMMENDATIONS continued**

Ms. Okuma reported that now that IPM will be defined in regulation, the Board could take action on the Water Quality Committee recommendations.

Mr. Heppler stated that since there is not language developed, noticing for public hearing would be premature.

Ms. Okuma agreed and stated that the motion would be to direct staff to prepare language for the Board to review.

Ms. Combs-Ferreira asked if there are currently continuing education courses that deal with IPM.

Ms. Okuma responded that Board staff would have to reexamine course materials but she felt that many existing courses would qualify.

Mr. Sesay moved and Mr. Arzate seconded to direct Board staff to develop proposed language to include the Water Quality Committee's recommendations for pre and post education requirements in the area of IPM.

Mr. Van Hooser suggested not adding hours to the renewal requirement but rather take hours from either technical or rules and regulations.

Ms. Okuma responded that not adding additional hours is already in the recommendation.

Passed unanimously.

#### **XIV. REQUEST THAT THE BOARD SEEK A LEGISLATIVE AMENDMENT TO ALLOW BRANCH 3 COMPANIES TO ADVERTISE FOR FUMIGATION**

Curtis Good, Newport Exterminating, thanked the Board for allowing him the opportunity to speak. He stated that to allow Branch 3 companies to advertise for fumigation, language would have to be added to Business and Professions Code Sections 8514, 8648, and 8651 through a legislative amendment. He sees no difference in an insurance broker using various insurance companies when working with a consumer. Mr. Good reported that most consumers do not have any contact with the fumigators until the day of the fumigation. He respectfully asked that if the Board agreed, that the Board stop issuing fines to the Branch 3 companies that include fumigation in their advertisements.

Mr. Cartwright reported that as a Branch 1 company, he does not mind if a Branch 3 company says that fumigation is available. He does have a problem if the Branch 3 company states that they perform the fumigation themselves.

Carl Vince, Mountain View Termite Control, stated that his Branch 3 company has to insure for fumigation and he agrees that the Branch 3 companies should be allowed to advertise for fumigation. Mr. Vince believes that the Branch 3 companies are not deceiving consumers.

John Sansone, Fumigator's Group of Southern California, stated that approximately 75% of fumigations are subcontracted. He felt that if Branch 3 companies are ultimately responsible when there is an issue with the fumigation, they should be allowed to advertise for fumigation.

Ms. Okuma reported that the Board could not support a legislative bill that does not exist. She suggested that Mr. Good and PCOC work towards preparing a legislative bill for the Board to take a position on at a future meeting.

Mr. Good requested that the Board's enforcement stop issuing fines to the Branch 3 companies advertising for fumigation.

Mr. Arzate asked for the amount of the fines.

Mr. Smitley responded that the fine is \$700 per offense.

Ms. Okuma stated that the issue of Branch 3 companies advertising for fumigation is not new. Until recently, the Board's only authority was to file an action with the Attorney General's Office for disciplinary action. The Board's enforcement staff has recently been granted citation and fine authority and has been issuing the fines in response to industry members complaining about the Branch 3 advertisements.

Mr. Heppler stated that he does not participate in the Board's enforcement program but the topic as presented by Mr. Good on the agenda does not call for the Board to decide whether or not to continue issuing citation and fines for advertising for fumigation. He recommended that the Board wait until legislative language is developed before taking a position.

Joe Gatto, PCOC President, asked if it would be possible to go through regulations to further clarify statutes as it could be much quicker than going through the legislative process.

Mr. Heppler stated that a proposed amendment of a regulation could be possible but since the issue is not on the agenda it would have to wait until the next Board meeting.

Mr. Arzate moved and Ms. Combs-Ferreira seconded to not seek a legislative amendment but to consider supporting a legislative bill at a future Board meeting. Passed unanimously.

**XV. REQUEST TO AMEND SECTION 1993.3 OF THE BOARD'S REGULATIONS TO ALLOW FOR "FREE INSTALLATION" OF IN-GROUND TERMITE BAIT STATIONS AND EXEMPTION TO CONTROL SERVICE REQUIREMENTS**

Ms. Okuma reported that the Board has been asked to consider an amendment to a regulation to provide for "free installation" of in-ground termite bait stations and thus an exemption from the control service agreement consideration is also being requested.

Mark Male, Orkin Exterminating Company Inc., stated that it is common practice for Orkin outside of California to install subterranean termite monitoring systems outside of consumer's homes to allow the consumer to monitor and detect the presence of termites. The consumer is not obligated to contract with Orkin and a full service agreement would only be signed if the consumer did contact Orkin.

Ms. Melton suggested referring the issue to the Board's Rules and Regulations Committee to be discussed at the next Board meeting.

Mr. Utlely moved and Mr. Sesay seconded to refer the issue of free installation of in-ground termite bait stations and exemption to control service requirements to the Rules and Regulations Committee. Passed unanimously.

**XVI. RECOMMENDATION TO APPOINT RICHARD KRAVETZ, OPR 7798, TO THE DISCIPLINARY REVIEW COMMITTEE**

Ms. Okuma reported that the Disciplinary Review Committee consists of a representative from the Board, DPR, and the pest control industry. The Board tries to maintain a pool of industry members who would like to participate on the committee. Currently there is only one person in the pool so Board staff is requesting that Richard Kravetz be added. If the Board chooses to recommend Mr. Kravetz, the recommendation would go to DPR for consideration.

Ms. Combs-Ferreira moved and Mr. Sesay seconded to recommend that Mr. Kravetz be appointed to the Disciplinary Review Committee.

Mr. Morris asked if there was any reason to be concerned as Mr. Kravetz had several changes of address in his license history report.

Ms. Okuma responded that the license history spanned twenty years in the industry so there is no reason to be concerned. Most importantly, Mr. Kravetz has had no actions taken upon his license.

Passed unanimously.

**XVII. PRE-TREATMENT COMMITTEE UPDATE**

Ms. Okuma reported that the Pre-treatment Committee has been working towards some recommendations concerning pre-notification to the county agricultural commissioner's offices. In order for the committee to proceed, the County Agricultural Commissioner's and DPR needed to agree with the recommendations, as pesticide enforcement is the responsibility of the counties and DPR. DPR met with Ms. Okuma recently and expressed some concerns with the direction of the committee. The concern is that the county offices do not have the resources currently to carry out their full mandate. DPR is asking the Board to reconsider the direction that the committee is going in terms of pre-notification, posting, and pre-treatment.

Joe Frazier, Frazier Pest Control Inc., asked if the Board considered contacting the agricultural departments of Arizona and Nevada for guidance on how to proceed in California.

Ms. Okuma responded that one of the committee members owns pest control companies in both California and Arizona and has contributed information on the pre-treatment program in Arizona.

Mr. Grisafe asked how many pre-treatment complaints the Board receives.

Ms. Okuma responded that there have been only a couple of consumer driven pre-treatment complaint cases in thirty years and both cases came from the same development in San Diego.

Mr. Heppler suggested putting the issue on the agenda for the next Board meeting to allow for some dialog between the Board, DPR, and the County Agricultural Commissioner's Offices.

### **XVIII. ELECTION OF OFFICERS**

Ms. Okuma asked for nominations for the office of President.

Mr. Morris nominated Mustapha Sesay for president of the Structural Pest Control Board.

Passed unanimously.

Ms. Okuma asked for nominations for the office of Vice President.

Ms. Melton nominated Cliff Utley for vice president of the Structural Pest Control Board.

Passed unanimously.

### **XIX. BOARD MEETING CALENDAR**

The next Board meeting will be held January 10 and 11, 2008, in San Jose. The following meeting will be held April 17 and 18, 2008, in Riverside.

### **XX. FUTURE AGENDA ITEMS**

Mr. Whitmore, speaking on behalf of PCOC, reported that at a recent PCOC Board of Directors meeting, serious concerns were brought up about false and misleading advertising. A letter from PCOC was distributed to the Board members which spoke of various treatment methods and technologies that falsely compare themselves to whole-structure treatment methods. The advertisements are clearly in violation of CCR section 1999.5 as it is written today as well as how the regulation will be written if the proposed amendment goes through. The advertisements have been present for over two years and Mr. Whitmore, on behalf of PCOC, would like the issue to be on the next agenda.

Ms. Melton stated that the issue would be included on the agenda for the January Board meeting.

**XXI. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA**

Mr. Cartwright distributed an advertisement for an orange oil treatment that calls itself an all-encompassing treatment. He asked why the Board has allowed for such advertisements.

Ms. Okuma responded that the orange oil issue would be on the next agenda.

Denise Susan Fries, Ecola Services Inc., reported that her company does alternative pest control treatments. She felt strongly that her company is not misleading consumers. She stated that she is appalled that the Board is not taking quicker action on the orange oil issue as the company that she purchased was disciplined for its advertisements and claims in 1998.

Mr. Vince agreed that the Board needs to address the orange oil advertisements.

Dr. Michael Linford, ThermaPureHeat, stated that before his company's heat method for termites was introduced, the efficacy of the treatment was verified. The orange oil treatment has not gone through the proper testing and the claims that the advertisements are making are unjustified.

Ms. Okuma stated that months and years of investigation and research went into the Ecola lawsuit. She assured that Board staff has put as much effort and fact gathering into the orange oil issue as staff did for the Ecola lawsuit. Some citations and fines have already been issued and some actions are pending.

**XXII. ADJOURNMENT**

Ms. Melton adjourned the meeting at 1:02 PM.

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MUSTAPHA SESAY, President

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KELLI OKUMA, Executive Officer

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DATE