

# **Report from the Practice Review Board (PRB) for Complaint Cases resolved that are related to ASTTBC protected titles from January 2010 to December 2010:**

## **TITLES ENFORCEMENT**

The Applied Science Technologists and Technicians of British Columbia (ASTTBC) is incorporated under the Applied Science Technologists and Technicians (ASTT) Act RSBC 1979 c.16.1 in 1985; since revised as RSBC 1996 c.15 on April 21, 1997.

The ASTTBC provides professional certification to technologists and technicians in the applied science technologies related to Biological Sciences, Biomedical Engineering, Building, Chemical, Civil Engineering, Electrical, Electronics, Environmental, Forest Engineering, Gas & Petroleum, Geomatics, Industrial, Information, Instrumentation, Mechanical, Metallurgical and Mining disciplines. The ASTTBC also grants technical specialist certification in technical areas such as building design, construction safety, fire protection, house and property inspection, onsite wastewater, public works inspection, site improvements surveys, steel detailing and timber cruising.

Our ‘purpose’, as generally stated in the ASTT Act is, “To maintain, improve and increase the knowledge, ability and competence of technologists and technicians; to regulate standards of training and practice of and for its members, and to protect the interests of the public.” The ASTT Act and Regulations, in the provision of professional certification of technologists, technicians and technical specialists, requires that members adhere to a Code of Ethics, provides a disciplinary mechanism to deal with breaches of the Code and **protects ASTTBC’s titles and designations.**

The ASTTBC Council has charged the Practice Review Board (PRB) of ASTTBC with the responsibility for enforcement of the ‘Code of Ethics’ for member’s professional practice and conduct, as well as with protecting ASTTBC’s titles and designations. The following report reflects the activities and resolved case files of the PRB. It is the policy of ASTTBC to only report on the specific details of cases (names, places and dates etc.) when the case has resulted in censure as a result of a Disciplinary Hearing or the PRB has determined it is in the public interest to have such information provided.

### **CASE #08-15**

#### **STATEMENT OF COMPLAINT**

There was a concern by ASTTBC staff that titles, ‘RD.AIBC’ and ‘BD.AIBC’, being used by the Architectural Institute of British Columbia (AIBC) are a violation of ASTTBC’s trade mark titles: RDB and CRD.

#### **BACKGROUND**

AIBC created new Associate membership classifications for Building Designers and provided these individuals with ‘RD.AIBC’ and ‘BD.AIBC’ designations. ASTTBC also has registered members in the Building Design Technical Specialist Discipline and with the trade marked titles of RDB (Registered Building Designer) and CRD (Certified Residential Designer). The Associate Registrar recommends to the ASTTBC Practice Review Board that based on Legal Counsel advice, no further action is required and this file is closed.

#### **INVESTIGATION**

ASTTBC Title’s Legal Counsel advised that she does not believe that the titles suggested by AIBC are an infringement of ASTT’s titles RDB and CRD. She further suggests that:

*‘Mere initials are generally given a narrow ambit of protection: a small change is usually sufficient for the courts or Trade Marks Office to find that the marks are not confusingly similar.’*

*Even a well-known mark such as IBM had problems with companies changing only one of the letters, and having a register-able mark’.*

## **DISCUSSION**

The advice of ASTTBC’s Legal Counsel was clear.

## **OUTCOME**

Based on Legal Counsel advice, the PRB determined that no further action was required and this file was closed.

## **CASE #08-16**

### **STATEMENT OF COMPLAINT**

It was alleged that NACHI was using the protected title ‘Certified Home Inspector’ on its website.

### **BACKGROUND**

ASTTBC Titles Legal Counsel was asked to contact NACHI regarding this infringement. Legal Counsel contacted a spokesperson for NACHI, regarding this matter. ASTTBC was asked for a site link, which would show ASTTBC’s exclusive use for this title

### **INVESTIGATION**

The link was sent to NACHI and Legal Counsel has not heard from them since. However, Legal Counsel advised ASTTBC that the NACHI website was subsequently checked and no reference to ‘Certified Home Inspectors’ was found.

### **DISCUSSION**

Legal Counsel advised that the page in question that raised this complaint had been completely removed and that it appears NACHI removed the problematic information without ASTTBC being advised.

### **OUTCOME**

The PRB recommends that, since the ‘Certified Home Inspector’ title had been removed from the NACHI website, no further action was required and the file was closed.

## **CASE #08-18**

### **STATEMENT OF COMPLAINT**

An individual was advertising the services of a non-ASTTBC Registrant and showing the designation ‘CHI’ next to the non-ASTTBC member’s name on his website.

### **BACKGROUND**

The ‘CHI’ is a protected designation and can only be used by Registrants appropriately certified in the ASTTBC House and Property Inspection group.

### **INVESTIGATION**

ASTTBC’s Title Legal Counsel contacted the individual who immediately removed the information from his website. Legal Counsel also tried to contact the non-ASTTBC Registrant at the contact address and email addresses listed on the individual’s website; however, the email ‘bounced back’ and the registered letter was returned marked ‘unclaimed’.

### **DISCUSSION**

The individual had removed the inappropriate information from his website, which was the initial concern; therefore Legal Counsel recommended that, since ASTTBC was unable to locate the individual who was the subject of the ‘CHI’ notation on the original website, the matter be closed.

## **OUTCOME**

The PRB recommended that, based on Legal Counsel advice, and the fact that the offending information had been removed from the individual's website, no further action was required and the file was closed.

## **CASE #08-27**

### **STATEMENT OF COMPLAINT**

A safety consulting company was using CSO and TSC on their website; indicating the courses they were offering would lead to ASTTBC certification as a CSO or TSC.

### **BACKGROUND**

ASTTBC Legal Counsel sent a cease and desist letter to the company advising that the CSO and TSC designations are title protected.

### **INVESTIGATION**

It was also suggested that they make application to ASTTBC to have their courses accredited and thus recognized by ASTTBC for certification.

### **DISCUSSION**

The safety consulting company has now removed all reference to the CSO and TSC titles and has further advised that they are preparing their application to have their CSO/TSC courses accredited by ASTTBC.

## **OUTCOME**

The PRB recommended that since the safety consulting company has removed the CSO and TSC titles from their website, and is in the process of applying to have their courses accredited by ASTTBC, no further action was required and the file was closed.

## **CASE #08-33**

### **STATEMENT OF COMPLAINT**

Allegations that the Construction Safety Association of Ontario was using both 'CSO' and 'Construction Safety Officer' on their website advertising.

### **BACKGROUND**

ASTTBC Legal Counsel sent a cease and desist letter to the Construction Safety Association of Ontario asking that they cease using both titles.

### **INVESTIGATION**

The Construction Safety Association of Ontario asked for confirmation from Legal Counsel confirming that ASTTBC had not previously consented to the use. Legal Counsel sent another letter confirming that ASTTBC had not consented to the use of either title.

### **DISCUSSION**

A letter of confirmation from the Construction Safety Association of Ontario was received advising that they will not use these titles, as they have altered the name of their program.

## **OUTCOME**

THE PRB recommended that since the Construction Safety Association of Ontario had confirmed that they had ceased using the titles 'CSO' and 'Construction Safety Officer', no further action was required and the file was closed.

**CASE #08-34****STATEMENT OF COMPLAINT**

A Community College was advertising on their website that they offered Construction Safety Coordinator courses and were using 'CSO' on both their website and in their brochures.

**BACKGROUND**

These courses had not been accredited by ASTTBC.

**INVESTIGATION**

ASTTBC Titles Legal Counsel sent a cease and desist letter to the College, to which they responded, advising that they have taken this information off their website and that they will have their brochures revised.

**DISCUSSION**

The Community College complied with the cease and desist order.

**OUTCOME**

The PRB recommended that, since the Community College had complied with the cease and desist order sent by Legal Counsel, to remove reference to the 'Construction Safety Coordinator' title for courses being offered at their College, and further advised that they will revise their website and brochures to remove all reference to 'CSO' and CSO titled courses, no further action was required and the file was closed.

**CASE #08-39****STATEMENT OF COMPLAINT**

A non-ASTTBC Registrant was using the designation 'CHI' after his name on a website.

**BACKGROUND**

An individual was using the protected 'CHI' designation after his name on a website.

**INVESTIGATION**

ASTTBC Titles Legal Counsel was asked to send a cease and desist letter to the individual.

**DISCUSSION**

Although there was no written reply from the individual, Legal Counsel noted that the 'CHI' designation had been removed from the website.

**OUTCOME**

The PRB recommends that, since the 'CHI' designation has been removed from the website, specifically in reference to the individual, no further action was required and the file was closed.

**CASE #08-40****STATEMENT OF COMPLAINT**

A non-ASTTBC Registrant was using the designation 'CHI' after their name on a website.

**BACKGROUND**

ASTTBC Titles Legal Counsel was asked to send a cease and desist letter to the individual.

**INVESTIGATION**

Although there was no written reply from the individual, Legal Counsel noted that the 'CHI' designation had been removed from the website, therefore, no further follow up was necessary.

## **DISCUSSION**

None required.

## **OUTCOME**

The PRB recommends that, since the 'CHI' designation has been removed from the website, specifically in reference to the individual, no further action was required and the file was closed.

## **CASE #08-46**

### **STATEMENT OF COMPLAINT**

An individual was using 'Certified Home Inspector' on their business cards.

### **BACKGROUND**

ASTTBC Legal Counsel sent a cease and desist letter to the individual, to which they responded, asking Legal Counsel to clear up their confusion by sending the registration number for this mark or a copy of the official registration certification. They further stated that they were engaging in some advertising and that time was an issue for clarification in this matter.

### **INVESTIGATION**

Legal Counsel responded to their concerns and again asked that they cease and desist using 'Certified Home Inspector'. No response was received and Legal Counsel sent another letter asking that they acknowledge and respond to the cease and desist order, which they also did not do. At the request of staff, Legal Counsel then phoned the individual to confirm whether they had ceased using the title. The individual advised that an email had been previously sent, but Legal Counsel did not receive it.

### **DISCUSSION**

Due to Government Licensing of House and Property Inspectors, the individual applied for membership with ASTTBC. It was noted by staff that they still had an outstanding PRB issue and thus, the Registrar advised staff not to proceed with his certification application until such time as there was confirmation from the individual that they would cease using the title until properly certified. Legal Counsel conveyed this message to the individual and they confirmed in an email that they would no longer use the title in the future without permission.

### **OUTCOME**

The PRB recommended that, since the individual had ceased using the 'Certified Property Inspection' title, no further action was required and the file was closed.

## **CASE #08-47**

### **STATEMENT OF COMPLAINT**

A non-ASTTBC Registrant was using the title 'Certified Home Inspector' on his business cards.

### **BACKGROUND**

An individual who was not a member of House and Property Inspections Technical Specialist group used the title 'Certified Home Inspector' on his business cards.

### **INVESTIGATION**

A cease and desist letter was sent to the individual by Legal Counsel. Legal Counsel later had a phone conversation with the individual explaining why he cannot use the title.

### **DISCUSSION**

The individual advised that he would stop using the title.

**OUTCOME**

The PRB recommends that, since the individual had advised Legal Counsel that they would cease using the title 'Certified Home Inspector', no further action was required and the file was closed.

**CASE #08-47 (A)****STATEMENT OF COMPLAINT**

A non-ASTTBC Registrant was using the designation 'CHI' in his newspaper advertising.

**BACKGROUND**

Legal Counsel was asked to send a cease and desist letter to the individual.

**INVESTIGATION**

The individual sent a fax to Legal Counsel advising that they had stopped using the 'CHI' designation in their advertising.

**DISCUSSION**

None required.

**OUTCOME**

The PRB recommended that, since the individual had ceased using the 'CHI' designation in their advertising, no further action was required and the file was closed.

**CASE #09-03****STATEMENT OF COMPLAINT**

A non-ASTTBC Registrant was using the designation 'Certified Home Inspector' on his business cards.

**BACKGROUND**

ASTTBC Titles Legal Counsel was asked to send a cease and desist letter to the individual.

**INVESTIGATION**

Upon receipt of the letter from Legal Counsel, the individual advised they were only using the title on their business cards and that they would cease using the title.

**DISCUSSION**

None required.

**OUTCOME**

The PRB recommends that, since the individual had advised Legal Counsel that they would discontinue the use of the 'Certified Home Inspector' title on their business cards, no further action was required and the file was closed.

**CASE #09-15****STATEMENT OF COMPLAINT**

An individual was using the title 'Certified Home Inspector' on an Internet website.

**BACKGROUND**

A non-ASTTBC Registrant was using the protected title of 'Certified Home Inspector'.

**INVESTIGATION**

Legal Counsel sent a cease and desist letter to the individual, to which they responded advising that they removed reference to 'Certified Home Inspector' from their name on the website.

**DISCUSSION**

None required.

**OUTCOME**

The PRB recommended that, since the individual had complied with the cease and desist order, no further action was required and the file was closed.

**CASE #09-32****STATEMENT OF COMPLAINT**

A non-ASTTBC Registrant was using the title ‘Certified Home Inspector’ in his advertising.

**BACKGROUND**

An individual who is not a member of ASTTBC was using the ASTTBC protected title ‘Certified Home Inspector’ in their advertising.

**INVESTIGATION**

ASTTBC Legal Council sent a cease and desist letter to the individual, to which they responded that they would be applying for membership with ASTTBC. On checking our records it was found that the individual had not applied for, nor even requested an application for, membership. Legal Counsel sent another letter advising him that we have no record of a request for an application. It was again requested that he confirm he will not use the ‘Certified Home Inspector’ title until such time as he is certified to do so.

**DISCUSSION**

The individual telephoned Legal Counsel to advise that they would not use the title unless and until they become certified with ASTTBC. Legal Counsel advised ASTTBC to close the file.

**OUTCOME**

The PRB recommended that, since the individual had confirmed to Legal Counsel that they would not use the title ‘Certified Home Inspector’, no further action was required and the file was closed.

**CASE #09-55****STATEMENT OF COMPLAINT**

A non-ASTTBC Registrant was using the title ‘Certified Home Inspector’ on his website.

**BACKGROUND**

An individual who was not a member of ASTTBC was using the protected title of ‘Certified Home Inspector’ on his website.

**INVESTIGATION**

ASTTBC Legal Counsel sent a cease and desist letter to the individual requesting that reference to ‘Certified Home Inspector’ be immediately removed from his website.

**DISCUSSION**

The individual called Legal Counsel advising that they used to do home inspections but no longer do them and that this information should not have been on his website. They further advised that they would have their web person remove it by the end of that week. Staff checked the website and the reference to ‘Certified Home Inspector’ had been removed.

**OUTCOME**

The PRB recommends that, since reference to ‘Certified Home Inspector’ had been removed from the

individual's website, no further action was required and the file was closed.

**CASE #09-57**

**STATEMENT OF COMPLAINT**

A non-ASTTBC Registrant was using the title.

**BACKGROUND**

An individual who is not a Registrant of ASTTBC was using the protected title of 'Certified Home Inspector' on his business cards.

**INVESTIGATION**

Legal Counsel sent a cease and desist letter to the individual, to which he replied verbally that he no longer does home inspections and that he would remove the title from his business cards and other promotional material.

**DISCUSSION**

Legal Counsel recommended ASTTBC close the file.

**OUTCOME**

The PRB recommended that, since the individual had verbally responded to Legal Counsel that they would cease and desist from using the 'Certified Home Inspector' title, no further action was required and the file was closed.

**CASE #09-65**

**STATEMENT OF COMPLAINT**

A non-ASTTBC Registrant was using the title 'Certified Home Inspector' on their employer's website.

**BACKGROUND**

An individual was using the ASTTBC protected title 'Certified Home Inspector' on their employer's website when not a member of ASTTBC.

**INVESTIGATION**

ASTTBC Legal Counsel sent a cease and desist letter to the individual and their employer.

**DISCUSSION**

The employer advised that they will immediately have the title 'Certified Home Inspector' removed from their website. They further advised that they do respect registered trademarks in Canada.

**OUTCOME**

The PRB recommended that, since the title has been removed from the website, no further action was required and the file was closed.

**CASE #09-84**

**STATEMENT OF COMPLAINT**

A non-member of ASTTBC was using 'ASTT(BC)' and 'CSO' on his business cards.

**BACKGROUND**

Staff noticed this inappropriate use of titles when the individual sent in an application for registration with a business card attached.

## **INVESTIGATION**

A cease and desist letter was sent to the individual and they responded, apologizing for this error in thinking, based on the assumption that once they had completed the BCIT CSO course they could use the CSO title. Similarly, they advised that the ASTT(BC) title was used on their business cards and website.

## **DISCUSSION**

The individual had both his business cards and website amended and this was confirmed by staff.

## **OUTCOME**

The PRB recommended that since the individual had confirmed that they will cease using the titles 'ASTT(BC)' and 'CSO' on their business cards and website, no further action was required and the file was closed.

## **CASE #09-97**

### **STATEMENT OF COMPLAINT**

A RFPT Registrant signed a Reference Questionnaire for a Fire Protection applicant under a name that was different than their name identified in the current ASTTBC Registry.

### **BACKGROUND**

When staff checked the database for under the applicant's provided name, no reference was found; seemingly he was not a Registrant, he was sent a cease and desist letter. He did not respond to the letter thus the file was sent to ASTTBC Titles Legal Counsel to send a follow up with a cease and desist letter. The Registrant responded to ASTTBC that he was a Registrant, but under a different name, which had been the name he took from his wife when he married and the name he was registered under. However, he was no longer married and thus decided to go back to his own original name.

### **INVESTIGATION**

The Registrant did not inform ASTTBC of the change in his name at the time.

### **DISCUSSION**

ASTTBC received a copy of his Permanent Resident Card showing the name he was currently using.

### **OUTCOME**

The PRB recommended that since the Registrant has submitted proof of his legal name, no further action was required and this file be closed. The Registrant was advised that he must return his Fire Protection Stamp and pay for a new stamp in his legal name. The member was further advised that it was his responsibility to keep ASTTBC apprised of changes that may affect his Registration Record with the Association, such as changes in name or contact information.

The member did comply with the PRB recommendation and returned his original Fire Protection Technician Stamp. A new stamp, with his correct name, was provided.

## **CASE #10-03**

### **STATEMENT OF COMPLAINT**

It was alleged that a non-member was using the CTech designation on their email.

### **BACKGROUND**

A cease and desist letter was sent to the individual, to which they replied, apologizing for the misuse of our designation.

### **INVESTIGATION**

The individual confirmed his violation of the Protected CTech designation under the ASTT Act &

Regulations.

### **DISCUSSION**

The individual confirmed that they had removed the designation from their email. The individual further stated that they don't have the qualifications for the designation and inserted it in their email with the intent of applying for it. The individual went on to state that this is no excuse and that they are now aware of the seriousness of this matter and poor judgment on their behalf.

### **OUTCOME**

Since the individual confirmed that they had ceased using the CTech designation, no further action was required and the file was closed.

### **CASE #10-09**

#### **STATEMENT OF COMPLAINT**

It was alleged that a non-ASTTBC Registrant was using the CHI designation on their advertising brochures and website.

#### **BACKGROUND**

ASTTBC Legal Counsel sent a cease and desist letter to the individual to which they replied that, to the best of their ability and knowledge, all of their literature and website containing the 'CHI or Certified Home Inspector' titles, had been replaced/repared to exclude this information.

#### **INVESTIGATION**

The individual also mentioned that they unknowingly infringed upon the CHI trademark.

#### **DISCUSSION**

No discussion was required for this straightforward title infringement.

#### **OUTCOME**

The PRB recommended that, since the individual had complied with the cease and desist order, advising that they had removed all reference to 'CHI and Certified Home Inspector', no further action was required and the file was closed.

### **CASE #10-14**

#### **STATEMENT OF COMPLAINT**

It was alleged that a member registered as an Associate member with ASTTBC, was using 'AScT, Assoc.' on their business cards.

#### **BACKGROUND**

As an Associate member with ASTTBC, the member is not entitled to use 'AScT' or any other certified title designation on their business cards or other advertising.

#### **INVESTIGATION**

A cease and desist letter was sent to the member, who submitted a letter to the Registrar apologizing for their misunderstanding regarding use of titles.

#### **DISCUSSION**

The member confirmed that they would cease using the 'AScT' title effective immediately.

#### **OUTCOME**

Since the member confirmed they would immediately cease using the 'AScT' title, no further action was required and the file was closed.

**CASE #10-20****STATEMENT OF COMPLAINT**

A Graduate Technologist member was alleged to be using the title 'Engineering Technologist' on their business cards.

**BACKGROUND**

While the member was Technical Specialist certified and registered as an Onsite Wastewater Practitioner (ROWP), the member was currently only certified as a Graduate Technologist.

**INVESTIGATION**

The member was sent a cease and desist letter by the Registrar, advising of the correct title/designation usage, with an order that they immediately cease using the term 'Engineering Technologist' as restricted under the ASTT Act & Regulations.

**DISCUSSION**

The member contacted the Registrar, advising that they were not aware that they could not use this title, since the Technical Specialist member had graduated from an accredited technology program. The member further advised that they now understood the proper protocol as part of being a member of ASTTBC.

**OUTCOME** Since the member confirmed that they understood the proper protocol for ASTTBC members for the proper use of titles, no further action was required and the file was closed. The member has since successfully applied for reclassification to Technologist (AScT) certification.

**CASE #10-35****STATEMENT OF COMPLAINT**

It was alleged that an AScT, ROWP member was using the title 'Engineering Technologist' under their name and only 'ROWP' behind their name.

**BACKGROUND** The member was sent a letter from the Registrar requesting that the correct display of their certified designated titles should be 'AScT, ROWP' placed after their name.

**INVESTIGATION**

No investigation was required.

**DISCUSSION**

The member sent a fax to the Registrar with a copy of his new business card showing the correct designated titles as 'AScT, ROWP' after their name.

**OUTCOME**

Since the member complied with the Registrar's request to appropriately identify their certification with ASTTBC, no further action was required and the file was closed.

**CASE #10-42****STATEMENT OF COMPLAINT**

It was alleged that a previous RFPT Registrant was using a cancelled Fire Protection stamp on various jobs, as well as the ASTTBC logo with the cancelled Fire Protection number on business cards.

**BACKGROUND**

The Registrants membership was cancelled for non-payment of annual dues. The individual was sent a cease and desist letter, which requested he cease using the ASTTBC logo, his previous Fire Protection

membership number and return the cancelled Fire Protection stamp.

### **INVESTIGATION**

The individual replied questioning why they should return the stamp or cease using the ASTTBC logo and their previous membership number, as the individual believed himself to be a Fire Protection Technician.

### **DISCUSSION**

The individual had been sent notification advising that their RFPT Registration had been cancelled for non-payment of annual dues. The individual was, however, provided with an offer to pay all outstanding dues and, upon payment, the Registrar would reinstate their membership. The individual provided Accounting staff with their credit card for payment of the dues; however, it was rejected on numerous tries. ASTTBC then referred the matter to ASTTBC Legal Counsel to send a cease and desist letter; however he ignored this for 3 months as well. Accounting staff were finally able to connect with him and get new credit card information. The outstanding dues have now been paid.

### **OUTCOME**

PRB recommended that since the Registrant has now paid his outstanding annual dues, no further action was required and the file was closed. A note was placed in the database as a reminder that he may need follow-up regarding future dues payments. ASTTBC has since instituted a penalty fee for reinstatements.

### **CASE #10-55**

#### **STATEMENT OF COMPLAINT**

ASTTBC was advised that nine members of a group website were using the protected title 'Certified Home Inspector'.

#### **BACKGROUND**

A copy of the information and website link were sent to ASTTBC Trade Marks Legal Counsel to send cease and desist letters to the group of nine

#### **INVESTIGATION**

When Legal Counsel checked the website, the group had all ceased by that time in using the Certified Home Inspector title.

#### **DISCUSSION**

None required.

#### **OUTCOME**

The PRB recommended that, since the website had been revised and the 'Certified Home Inspector' title removed, no further action was required and the file was closed.

### **CASE #10-59**

#### **STATEMENT OF COMPLAINT**

On a letter of reference for a Fire Protection applicant a Registrant use the designation 'RFPT'.

#### **BACKGROUND**

The Registrant was an Interim member of the Fire Protection Technician group.

#### **INVESTIGATION**

The Registrant was sent a cease and desist letter, advising that, as an 'Interim' member of the Fire Protection group, they were not permitted to use the RFPT designation until such time as they were fully certified.

**DISCUSSION**

The Registrant ignored two letters sent to him, thus the Manager, Fire Protection Technician Registrations, phoned him to explain the situation. Shortly thereafter a letter was received advising that he will not use the RFPT designation until he certified to do so.

**OUTCOME**

The PRB recommended that, since the Registrant had confirmed that they would cease using the 'RFPT' designation until such time as he is certified to do so, no further action was required and the file was closed.