

PRACTICE REVIEW BOARD

CASE HISTORIES JANUARY 1, 2005 TO AUGUST 2006.

PRACTICE REVIEW BOARD DISCIPLINE REPORTS PREAMBLE.

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, 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.

AScT and CTech member cases resolved from January 1, 2005 to August 16, 2006	Page 2
Building Designer cases resolved January 1, 2005 to August 16, 2006	Page 3
Fire Protection cases resolved from January 1, 2005 to August 16, 2006	Page 4
House Inspection cases resolved from January 1, 2005 to August 16, 2006	Page 13
Onsite Wastewater cases resolved from June 1, 2005 to August 16, 2006	Page 15
(Sewerage System Regulation came into force May 31, 2005, therefore no cases prior to this time)	
Titles cases resolved from January 1, 2005 to August 16, 2006	Page 22

**Report from Practice Review Board For Complaint Cases Resolved For
AScT or CTech Members - (cases received since January 1, 2005)**

CASE #06-45

STATEMENT OF COMPLAINT

That an AScT member had acted contrary to a legal agreement (non-competition clause in shareholder's agreement) that he had with a previous employer.

BACKGROUND

The AScT member was an employee and shareholder of a firm where, upon his resignation, his shares were purchased back by the company. The member, however, was bound by a non-competition clause that discouraged any shareholder from working with any of the company's clients for a period of two years.

INVESTIGATION

The member was contacted by a client of his previous employer to work on a project. This previous client indicated to the member that it had terminated its relationship with the member's previous employer. The member advised this previous client of the conditions of his shareholder's agreement with his previous employer and offered to assist the client in finding a suitable consultant, which subsequently he was not able to do on short notice. The member informed his previous employer regarding the issue and was reminded of the conditions of the shareholder's agreement

DISCUSSION

The member discussed the issue with his lawyer who advised that, although a full two years had not exactly passed, he had legally satisfied the terms of the non-competition clause.

OUTCOME

The Practice Review Board (PRB) reviewed the matter and determined that there did not appear to be a breach of the ASTTBC Code of Ethics (Principle 4 and Principle 7) in that the member had acted in a responsible manner in dealing with his former employer, and while there may be a legal issue that may have to be resolved between the complainant and respondent member, no further action was required or necessary by the PRB and this matter was closed.

**Report from Practice Review Board For Complaint Cases Resolved In
BUILDING DESIGN - (cases received since January 1, 2005)**

CASE #05-19

STATEMENT OF COMPLAINT

That a Registered Building Designer (RBD) member of ASTTBC copied a house plan even though the plan was marked 'Copyright of Do not copy'. The RBD member put his name on the plan with no reference to the original designer, after which it was submitted to the authority having jurisdiction for Permit.

BACKGROUND

Clients of a RBD member wanted to construct a house, per an original plan designer's own home and the original designer agreed to sell them his house plans. The original designer marked each page of the plan, 'Do not copy'. The RBD member's clients then approached him and asked him to modify the original designer's plan to change the roof line, which our member subsequently did. The RBD member photocopied details from the plan and put his name to the document; he did not contact the original designer nor did he acknowledge that the plans belonged to the original designer.

INVESTIGATION

The complaint (from the original designer of the original house plan) and the RBD member's response were forwarded to the ASTTBC Legal Counsel for review and verification of copyright infringement. Legal Counsel reviewed the complaint and found, that based on the information submitted by the original designer, there was no evidence that the RBD member's actions were a clear instance of copyright infringement suitable for sanction by ASTTBC.

DISCUSSION

ASTTBC Legal Counsel indicated that some ASTTBC members may not fully understand the copyright law as it relates to building plans and therefore provided a document, 'Copyright Law and Building, Design, and Construction Plans', suggesting that it be distributed to the ASTTBC membership.

OUTCOME

The Practice Review Board, based on Legal Counsel advice, found that there was no breach of the ASTTBC Code of Ethics, advised all parties concerned and closed the case. It was further recommended that the document 'Copyright Law and Building, Design, and Construction Plans' be provided to each member of ASTTBC.

Note: the 'Copyright Law and Building Design, and Construction Plans' document was provided as a bulletin insert to all members within a publication issue of the ASTT News.

**Report from Practice Review Board For Complaint Cases Resolved In
FIRE PROTECTION - (cases received since January 1, 2005)**

CASE #05-02

STATEMENT OF COMPLAINT

A member upgraded a kitchen fire suppression system as required by code at a multi level care facility, which was built for long term care. His report stated that the work had been upgraded to meet the ULC/ORD 1254.6 requirements. Subsequently, another member completed a semi annual inspection of the system and noted on his inspection report that the system did not meet code requirements. The property manager subsequently submitted a complaint to ASTTBC in regard to the services of the original member.

INVESTIGATION

The site was visited by an ASTTBC contracted investigator to conduct a survey of the system and report any deficiencies. The investigator submitted a report which listed a number of non-compliances found on the system.

DISCUSSION

It was noted that this was a new installation/upgrade and that the Fire Protection Certification Board does not certify for installations. The member provided documentation to the Practice Review Board in regard to his manufacturer's training, which had been a consideration by the Fire Protection Certification Board in granting his original certification. During the Practice Review Board's investigation of the case, the member's registration was cancelled for non-payment of annual dues. As a non-member of ASTTBC, the Board has no power of enforcement over the individual.

OUTCOME

The ex-member was found to be in violation of the ASTTBC Code of Ethics for the improper installation/upgrade of a wet chemical system. No censure could be imposed as he was no longer a member of ASTTBC; however, should he request reinstatement of his registration he will be required to address this outstanding Practice Review Board matter.

CASE #05-06

STATEMENT OF COMPLAINT

Fire inspection tags, which were pre-stamped with a member's stamp, were anonymously given to ASTTBC.

BACKGROUND

The anonymous source, which turned in the fire inspection tags, inferred that the member provided these pre-stamped tags in his work vehicles for indiscriminant and unsupervised use by his staff. ASTTBC wrote to the member requesting an explanation as to why the member would have 44 pre-stamped unsecured tags, which were able to find their way into ASTTBC's possession.

INVESTIGATION

The member's lawyer responded to ASTTBC's letter by stating that the stamped tags were illegally removed from the member and that ASTTBC was in receipt of stolen property. The member's lawyer further demanded to know the anonymous source who had provided the ASTTBC with the tags. On advice from ASTTBC's Legal Counsel, this request of the member's lawyer was not responded to, however, it became necessary to return the tags to the member.

DISCUSSION

ASTTBC must protect third party interests and the identity of anonymous sources. Further investigation was determined to be fruitless, given the anonymous source of the pre-stamped fire inspection tags and the requirements of the Fire Protection Technician Practice Guidelines, dealing with pre-stamped tags, at the time of the event.

OUTCOME

As a result of this case, the Fire Protection Guidelines for stamp use were changed to ensure that **members must not pre-stamp fire inspection tags**. No further action in this case was required and the case was closed by the Practice Review Board.

CASE #05-08

STATEMENT OF COMPLAINT

A member's fire protection technician stamp was used incorrectly in that the member provided inspection services for a special fire suppression system when not certified to do so.

BACKGROUND

The member's stamp was found on a fire inspection tag that indicated he had completed work on a special fire suppression system when not certified and registered for this type of service. The tag also contained other irregularities contrary to Fire Protection Guidelines for Stamp Use.

INVESTIGATION

The member was sent a letter noting that since he was not certified to work on special fire suppression systems, an explanation was required as to why he was using his stamp in an inappropriate manner. The member advised ASTTBC that a technician, who had formally been a member of ASTTBC, did the work and was not authorized by the member to use his stamp or sign the tag. He assured ASTTBC that the situation had been rectified and that he would in the future maintain appropriate control of his stamp.

DISCUSSION

ASTTBC attempted to send a letter to the former member involved in this case, to notify him that he must immediately send written confirmation that he will cease using the RFPT designation and return his cancelled ASTTBC fire protection technician stamp. Contact with the former member was not achieved and there were indications that the former member had left the province.

OUTCOME

ASTTBC advised the initial member involved in this case that the Practice Review Board accepted his explanation of the circumstances involving the misuse of his fire protection technician's stamp and that his involvement in this case was closed. Since the former member involved in the case could not be located or contacted, the matter regarding his conduct in this case was also closed with a note entered on the ASTTBC data base indicating that should the former member request to reinstate his registration, he would have to resolve this outstanding Practice Review Board matter prior to reinstatement being granted.

CASE #05-10

STATEMENT OF COMPLAINT

It is alleged that a member had been sending uncertified or registered workers to job sites where they performed exhaust cleaning services and then attached the member's pre-stamped fire inspection tags to the work. It was further alleged that these services were being supplied without any registered fire protection technician present.

BACKGROUND

The member responded to ASTTBC advising that all work services were completed in accordance with the requirements of the Fire Protection Certification Board Policy and that his Trainee was directly supervised when applying his fire inspection tags.

INVESTIGATION

The complainant could not support the complaint with any evidence supporting the assertion of wrong doing by the member. It was determined that an investigation of the site would not be able to provide any evidence to support the complaint.

DISCUSSION

Without evidence that would stand the test of a Disciplinary Hearing, the Practice Review Board was unable to proceed with the complaint.

OUTCOME

Since no evidence of wrong-doing could be provided, the Practice Review Board closed the case with no further action being required.

CASE #05-11

STATEMENT OF COMPLAINT

It was alleged that a member, during an annual inspection of emergency lighting packs, removed existing fire protection tags and retagged all the lighting packs as operational when the lighting packs had been previously inspected and tagged as deficient by another firm.

BACKGROUND

A previous firm conducted an annual inspection and test of the emergency lighting units and found six emergency lighting units defective and recorded and tagged the packs.

The member also conducted an annual inspection (although not under current contract, but he had the previous contract) of the same emergency lighting packs. He removed the current fire protection tags of the other firm and retagged all the emergency light packs as operational.

INVESTIGATION

During the investigation the member stated that:

- The fact that the batteries were over 5 years old and were cracked had no bearing on the fact that they were working at the time of his test.
- That his test consisted of using the test switch for 15 minutes.

The original firm's inspection indicated that the batteries were over 5 years old and two of the three battery casings in question were cracked.

The manufacturer of the batteries stated that the Canadian Fire Code required that emergency lighting be tested on a regular basis and they suggested monthly for about 10 minutes and once annually for a full 30 minutes. Any battery units that cannot run for the minimum required 30 minutes before shutting off, must be serviced or replaced. The average life expectancy of the batteries is 4 to 6 years of normal operating conditions. Generally, if it is still meeting the 30 minute requirement, they are considered good. Many things can affect the life of the batteries, such as ambient temperature (higher temperatures will shorten battery life), condition/adjustment of the charger and number of discharge cycles the batteries have been through.

DISCUSSION

The member's statement that the batteries being cracked would have no bearing on the emergency lighting unit would not be consistent with acceptable practice. The member was conducting the annual emergency lighting test incorrectly by using the test switch. The annual test should have been done by disconnecting the power supply and the member was testing the units for 15 minutes when the Fire Code requires a 30 minute test.

OUTCOME

Since the member did not appear to know the acceptable practice for conducting the inspection, testing and maintenance of emergency lighting units, the Practice Review Board required the member to provide an acceptable report on the practice guidelines he would employ in the future, regarding these services, as required by section 6.7.1.6 - Inspection of Unit Equipment, of the BC Fire Code. Further, the member was required to demonstrate how he would ensure currency with appropriate regulations and any future regulation changes affecting his practice.

CASE #05-17

STATEMENT OF COMPLAINT

A Fire Department Inspector found the cleaning of two restaurant kitchen exhaust systems by a member to be inadequate.

BACKGROUND

The member agreed to wrong doing and to a Stipulated Order, based on the evidence presented by the complainant.

INVESTIGATION

No investigation was required as the site in question had been inspected by the authority (local fire department) having jurisdiction.

DISCUSSION

No discussion was necessary as the member agreed to accept the Practice Review Board's recommendation for a Stipulated Order.

OUTCOME

The member completed the following conditions of a Stipulated Order:

- The member provided an acceptable report on the conditions required under the Fire Code and reference documents with respect to the cleaning of kitchen exhaust systems.
- The member produced a copy of an acceptable sample inspection report form that he will use for his future work.
- The member provided evidence to the Practice Review Board that he had cleaned the kitchen exhaust systems at both sites, resulting in the complaint, in accordance with the Fire Code. All required remedial work was done at his own expense.

CASE #05-18

STATEMENT OF COMPLAINT

The complainant alleged that a member approached his client and:

- Convinced the building manager, in a very adamant and bullying manner, that the building's emergency lighting units were due for an annual inspection and testing, even though the manager stated that they already had a service technician.

- The member charged the manager for 5 emergency lights when in fact only 3 were tagged.
- The member failed to address that an emergency light had an exit light attached to it and that both A.C. exit bulbs were out and the 6 volt center bulb was missing. The same bulb on another combo unit was also missing, with one of the A.C. bulbs also being out.

BACKGROUND

The complainant could not provide proof of the allegations and was relying on supporting testimony and documents from the building manager, as related to the conduct of the member. The complainant also did not provide a signed written complaint and suggested that this would come from the building manager.

INVESTIGATION

An investigation established that the member did do the inspection and test work one week prior to the expiry date of the existing fire protection tags. The building manager was contacted and stated verbally that the member had been aggressive in his approach and checked the emergency lights even though he had not been specifically asked to do so. The building manager was advised that if they wanted to lay a complaint with respect to the conduct of the member that they would have to do so in a written and signed letter, before the Practice Review Board could consider the case further. Several attempts over an extended time period were made to get a written and signed complaint from either the complainant or the building manager so that the investigation could proceed. No written and signed complaint was received.

DISCUSSION

The Practice Review Board never received a formal written complaint in this case and it became clear that the original complainant, and/or the building manager involved, would not pursue the matter further.

OUTCOME

That since the complainant failed to respond to letters from ASTTBC regarding the submission of a written, signed complaint, no further investigation or action was initiated by the Practice Review Board and this case was closed. The complainant was advised that should he submit a written, signed complaint in the future the case would be reopened.

CASE #05-20

STATEMENT OF COMPLAINT

That a member conducted a test of a fire alarm system in a building complex to CAN/ULC-S536 and that the member failed in his duty to:

- Recognize that components, critical to the proper function of the fire alarm control equipment and the safety of the occupants, were not tested.
- Present complete documentation for the equipment tested, which resulted in a reporting format that did not represent an accurate and thorough test of the affected systems to CAN/ULC-S536.
- Properly document the required tests to a standard acceptable to ASTTBC and his level of certification and registration.

BACKGROUND

The member agreed to wrong doing and to abide to the conditions of a Practice Review Board's Stipulated Order, based on the evidence presented by the complainant.

INVESTIGATION

No further investigation was required as the member agreed to a Stipulated Order.

DISCUSSION

No discussion was necessary as the member accepted a Stipulated Order.

OUTCOME

Since the member failed to complete his report on the test of the fire alarm system in a building complex satisfactorily, the member completed the following conditions of a Stipulated Order:

- Submission of a written report (minimum 500 words) describing why it is important for the member to accurately complete inspection and test reports and advising how these reports will be completed in the future, in order to ensure their correctness.
- Assurance that he will be responsible for his reports, regardless of his employer's procedures.
- Assurance the he will stamp all of his reports.

CASE #05-21

STATEMENT OF COMPLAINT

That a member, acting as the President of his company, did enter into a contract that supplied equipment for a strata complex, which was installed in contravention to the manufacturer's installation instructions, the Canadian Electrical Code, and ULC CAN4-S524 (Installation Standard for Fire Alarm Systems). Further, that the member should have been aware of all aspects of the improper installation.

BACKGROUND

The strata complex had been serviced by the member's company for several years. The company had been contracted to upgrade the original building equipment and had chosen to replace a system, with a long history of complaints, with new equipment. The new equipment had been installed inside the existing cabinets and the manufacturer had been extensively involved in the manufacturing/fabricating of the components. The manufacturer's service division was also responsible for all the final terminations. It was asserted that the installation of the equipment inside the existing cabinets was not compliant with the manufacturer's ULC listing and the verification reports and certificates were rejected by an attending Electrical Department Inspector. The member's company was ordered to provide approved cabinets and re-verify the installation through a Fire Department Order, but there was no evidence that this was followed up by the company or municipal authority.

INVESTIGATION

Since the work leading to the complaint was completed in 2001, a site investigation became problematic. There was also an independent ongoing investigation by the municipal authority having jurisdiction into the same project. ASTTBC based its investigation on the documentation and evidence supplied by the complainant. No evidence was provided that showed that the member had any technical involvement beyond the corporate contracting by his company and it was impossible to identify specific technicians responsible for the various phases of the work.

DISCUSSION

While the Practice Review Board had concerns about the quality of services provided by the company, it could not clearly identify the member as having a professional responsibility for the quality of the work performed, as most of the work was contracted to others. The Board had to determine if it in fact had any jurisdiction in the matter.

OUTCOME

The Practice Review Board was concerned with the corporate procedures of the member's company in ensuring that public health and welfare was protected, but determined that the jurisdiction for the complaint was outside the mandate of ASTTBC and needed to be resolved by the local municipal authority having jurisdiction, which was aware of the situation.

A letter was sent to the member's company expressing ASTTBC's concerns and suggesting that changes be made to the company's corporate procedures, such that this situation could be avoided in the future.

CASE #05-22

STATEMENT OF COMPLAINT

It was alleged that a member conducted an unacceptable verification procedure for a fire alarm system.

BACKGROUND

The site at which the services were provided is a strata complex consisting of seven, two to four story wood frame multiple occupancy structures. The main building complex consisted of several ground level commercial/retail units with residential condominium type units above.

INVESTIGATION

The fire alarm verification done by the member was an upgrade, limited to the replacement of the fire alarm panels only. The required procedure for upgrading a fire alarm is as follows:

- The electrical contractor doing the upgrade shall take out a permit.
- Once the system upgrade is completed, the contractor then hires a Technician to conduct a verification of the fire alarm system.
- The system is verified according to ULC S537 Standard for the Verification of Fire Alarms Systems.
- This Technician must be approved by the municipal authority having jurisdiction.
- The Technician conducts the verification and any deficiencies are reported to the contractor for repairs.
- A subsequent verification is required to ensure the corrections are done and the verification report is again forwarded to the contractor.
- Once the system is free of deficiencies the contractor forwards the verification report to the municipal authority having jurisdiction.

The member's verification report indicated an existing ground fault on the panel and the system device list also confirmed that the devices were not tested for ground faults. Although this report was forwarded to the contractor, there is a question as to why the verification was completed at that time, as this was not the normal fire alarm verification procedure. The existing ground fault should have been cleared before the verification took place. The member's report to the contractor advised in his closing paragraph "although these items are existing conditions, they may affect your occupancy for this complex. These items require repair and a re-verification of proper operation. We can issue an updated Appendix C form when this is complete. Any re-verification will be completed at an additional cost." Since the original work was completed nearly 4 years previously to the complaint being lodged, a site investigation would be unable to verify the previous condition of the devices and control panel deficiencies. It was therefore determined that a site visit would produce questionable results in adjudicating this case.

DISCUSSION

Appendix 'C' documents were never submitted to the appropriate municipal authority for approval. The fire alarm verification was accomplished while one of the referenced systems indicated a general (ground) fault condition, which was reported by the member only in his correspondence with the contractor. This is not the normal fire alarm verification procedure. The existing ground fault should have been cleared before the verification took place. The contractor, from the information in the member's report, should have completed the repairs and had the system re-verified. The member should have ensured that this was done, given the obvious health and welfare issues potentially affecting the building's tenants.

The member recognized that the existing ground fault condition on the system did not permit testing of a ground fault at each device, but felt that the nature of the fault did not pose an immediate health and safety issue.

OUTCOME

The Practice Review Board accepted the member's explanation regarding the complex circumstances surrounding this site and the work done 4 years previously, however, the Board also recognized that it is not recommended practice to conduct the verification when a system is in ground fault. The Board issued a letter of reprimand to the member advising that in the future he must ensure that his reports reflect all conditions and that the proper procedures must be followed when completing verifications. The member acknowledged this reprimand from the Board, with assurance for future compliance.

CASE #05-28

STATEMENT OF COMPLAINT

A fire department inspector alleged that a member did not adequately clean a kitchen exhaust system in accordance to NFPA 96, which requires that the system be clean to bare metal (no grease residue is allowed).

BACKGROUND

The member agreed to wrong doing and agreed to the conditions of a Practice Review Board Stipulated Order.

INVESTIGATION

None was required as the member agreed to a Stipulated Order.

DISCUSSION

None was required as the member agreed to a Stipulated Order.

OUTCOME

The member recognized and acknowledged his failure to meet the Fire Code with respect to the cleaning of a kitchen exhaust system and completed the following conditions of a Stipulated Order:

- The supply of a report to the Practice Review Board on the conditions required under the Fire Code and reference documents with respect to the cleaning of kitchen exhaust systems. Further, production of a copy of an acceptable sample inspection reporting form that will be used for his future work.
- The provision of evidence to ASTTBC that he had cleaned the kitchen exhaust system at the site of the complaint, in accordance with the Fire Code, with all required remedial work completed at his own expense.

CASE #06-42

STATEMENT OF COMPLAINT

It was alleged by a fire department inspector that a member upgraded the fire protection system in a restaurant kitchen hood and the system was found not to be compliant and had multiple violations.

BACKGROUND

The member agreed to wrong doing and accepted the conditions of a Practice Review Board Stipulated Order.

INVESTIGATION

None was required as the member agreed to a Stipulated Order.

DISCUSSION:

This is a serious fire protection deficiency. Due to the nature of the occupancy it is mandatory that fire protection systems be upgraded to meet the current ULC 1254.6 requirements. This installation was done improperly due to the member not keeping current with a new regulatory change. An article describing the regulation upgrade, as required by the Fire Commissioner, was reported in a November 2002 ASTTBC Newsletter.

OUTCOME

The member recognized and acknowledged his failure to meet the requirements of the current ULC 1254.6 Regulatory requirement and completed the following conditions of a Stipulated Order:

- Provision to the Practice Review Board of a 500 word essay, which included acceptance and responsibility for his breach, describing why his actions were in violation of NFPA 96 and the Code of Ethics.
- Provision of a letter to ASTTBC describing how he would ensure currency on appropriate regulations and future regulation changes.
- Assurance that all inappropriately installed suppression bottles, with all his other customers, were immediately replaced to conform to the ULC 1254.6 requirements. Further, that those replacements had been completed at no cost to his clients.

**Report from Practice Review Board For Complaint Cases Resolved In
HOUSE INSPECTION - (cases received since January 1, 2005)**

CASE #05-07

STATEMENT OF COMPLAINT

That a Certified Property Inspector (CPI) member of ASTTBC failed, in a house inspection, to indicate that an electrical panel and outside connection did not meet code requirements.

BACKGROUND

A letter of complaint was received from a home owner that asserted that a CPI member's home inspection report failed to identify a concern with an electrical panel and outside connection, which may not have been to code requirements.

INVESTIGATION

During the investigation it became apparent that the home owner would be proceeding to litigation in this matter.

DISCUSSION

ASTTBC can not be perceived to influence a court of higher jurisdiction and any legal proceedings between the member and the complainant should be resolved before adjudication of the case could take place.

OUTCOME

Based on ASTTBC Legal Counsel's advice, the Practice Review Board determined that it could not proceed with this case until the legal proceedings had been resolved between the member and the complainant. The complainant was advised to resubmit their complaint at that time.

CASE #05-29

STATEMENT OF COMPLAINT

That an Associate member of ASTTBC and Inspector in Training with the British Columbia Institute of Property Inspectors provided a home inspection service that was asserted to be deficient.

BACKGROUND

New home owners contacted ASTTBC to discuss the complaint against an Associate member and to seek information as to what possible outcomes could come from the Practice Review Board (PRB) in regards to the members practice. The home owners also wished to know what compensation could be provided to them by the PRB.

The home owners were advised that the PRB mandate was only with matters relating to the members practice and the ASTTBC Code of Ethics. They were further advised that even should a breach of the code be found, they could not expect to get compensation from a PRB order, but must resort to court proceedings/litigation for any desired compensation from the member.

INVESTIGATION

The ASTTBC sent a letter to the home owners asking for any evidence to substantiate their complaint. They were also advised that the Practice Review Board would not commence an investigation or other action if the home owners were going to take legal action against the member.

There was no evidence that, at any time during the supply of the unregulated house inspection services did the Associate member mislead the home owners to believe that he was a certified and registered technical specialist member of ASTTBC in house/property inspection.

DISCUSSION

The home owners conveyed verbally to ASTTBC that since compensation by the Associate member could not be ordered, they would not be proceeding with their complaint.

OUTCOME

The PRB wrote to the complainants advising that since they had not submitted the requested evidence to allow this case to proceed, the matter was considered closed and no further action was required.

**Report from Practice Review Board For Complaint Cases Resolved In
ONSITE WASTEWATER - (cases received since June 1, 2005)**

CASE #05-23

STATEMENT OF COMPLAINT

That an ASTTBC Registered Onsite Wastewater Practitioner (ROWP), certified as a Maintenance Provider, was in violation of the Ministry of Health's Sewerage System Regulation and local Health Authority Filing requirements.

BACKGROUND

A local Health Authority Environmental Health Officer thought that the work done by the ROWP Maintenance Provider member had to be done by a ROWP, certified as a Planner.

INVESTIGATION

The documentation provided by Environmental Health Officer did not substantiate that the ROWP member had violated any section of the Ministry of Health Services Sewerage Regulation. The report and findings provided by the member, with respect to the onsite wastewater system, were clear and concise and lead to an ongoing system maintenance and assessment to ensure function.

DISCUSSION

The onsite wastewater system maintenance services provided was within the scope of the Sewerage System Regulation and Sewerage System Standard Practice Manual, per the member's certification and scope of practice as a ROWP Maintenance Provider.

OUTCOME

Since there is no evidence of Regulatory violation or breaches of the ASTTBC Code of Ethics by the member, the Practice Review Board closed the case and no further action was required.

CASE #05-30

STATEMENT OF COMPLAINT

That an ASTTBC Registered Onsite Wastewater Practitioner (ROWP), certified as a Planner and Installer, installed an onsite wastewater system that was designed and planned by an individual not approved as an 'Authorized Person' by ASTTBC or the Association of Professional Engineers and Geoscientists of British Columbia (APEGBC) and that the system did not meet the requirements of the Ministry of Health's (MoH) Standard Practice Manual.

BACKGROUND

A ROWP member advised that he had concerns about an onsite wastewater system that was being installed by another ASTTBC member, in that it did not appear to meet the requirements of the MoH Standard Practice Manual.

INVESTIGATION

The ROWP member in question admitted to having installed a system that was designed/planned by an individual not approved as an 'Authorized Person' by ASTTBC or APEGBC, but was unaware of the individual's professional status at the time. There was sufficient evidence that the onsite wastewater system failed to meet the requirements of the MoH Standard Practice Manual.

DISCUSSION

The member provided installation services for an onsite wastewater system from designs/plans of an individual who was not approved as an 'Authorized Person' by either ASTTBC or APEGBC. He should, as a Registered ROWP Planner, have known the system would not meet the requirements of the MoH Standard Practice Manual; and he deferred professional judgment to another, which violates Principle 1, (a, b, c,) of the ASTTBC Code of Ethics.

OUTCOME

The ROWP member accepted that he was in breach of Principle 1 (a, b, c) of the ASTTBC Code of Ethics; specifically, by deferring his professional judgment to an individual not approved by ASTTBC or APEGBC and that the onsite wastewater system failed to meet the requirements of the MoH Standard Practice Manual. The Practice Review Board determined that an appropriate remedy for these offences to be as follows:

- i) The ROWP member was required to guarantee, in writing, to the ASTTBC Practice Review Board that he would only, in the future, work with an 'Authorized Person' as recognized by either ASTTBC or APEGBC;
- ii) The ROWP member was required to have the next five (5) systems he planned, audited by ASTTBC, at his expense, to ensure that they complied with the MoH Standard Practice Manual.

CASE #06-34

STATEMENT OF COMPLAINT

It was claimed that an ASTTBC Registered Onsite Wastewater Practitioner (ROWP) incorrectly installed a sewerage system.

BACKGROUND

A complaint was received from a Health Authority that a ROWP member had incorrectly installed a sewerage system that did not comply with the Health Authority's or Ministry of Health's Standard Practice Manual requirements.

INVESTIGATION

It was discovered that the ROWP member had corrected the problems/issues of the Health Authority with respect to the onsite wastewater system in question. Upon a re-inspection of the sewerage system, the Health Authority advised both the ROWP member and ASTTBC that this matter had been satisfactorily dealt with.

DISCUSSION

The Health Authority withdrew its complaint of the ROWP member, based upon their re-inspection of the sewerage system and the fact that their concerns had been addressed.

OUTCOME

Since the Health Authority had withdrawn its complaint and no practice issues of the ROWP member were evident from this case, the Practice Review Board closed the case and determined that no further action was necessary.

CASE #06-35

STATEMENT OF COMPLAINT

It was alleged that an ASTTBC Registered Onsite Wastewater Practitioner (ROWP) failed to correctly adhere to the Sewerage System Regulation requirements when installing an onsite wastewater system.

BACKGROUND

A Health Authority alleged that a ROWP member had not installed an onsite wastewater system according to the Ministry of Health's Standard Practice Manual.

INVESTIGATION

A copy of the complaint was sent to the ROWP member and he indicated that the problems/issues of the Health Authority had been addressed.

DISCUSSION

The Health Authority subsequently completed a re-inspection of the sewerage system and advised ASTTBC that the matter has been satisfactorily dealt with.

OUTCOME

Since the Health Authority's concerns had been address by the ROWP member and no practice issues of the ROWP member were evident from this case, the Practice Review Board closed the case and determined that no further action was necessary.

CASE #06-38

STATEMENT OF COMPLAINT

That an ASTTBC Registered Onsite Wastewater Practitioner (ROWP) failed to ensure a properly planned and installed sewerage system was provided by him, as would be expected from a fully qualified and certified ROWP.

BACKGROUND

A ROWP had serious concerns about the quality of a sewerage system installed by another ROWP member, specifically identifying the pressurized sand mound size and the nature of the soil used to cover the system.

INVESTIGATION

The ROWP member in question was advised that a complaint had been received from another ROWP concerning his practice as a Registered Onsite Wastewater Practitioner. The facts determined during an investigation of the complaint were:

- i) The ROWP member did not determine the appropriate hydraulic loading rates;
- ii) The Filing with the Health Authority had insufficient detail to accurately describe the Filing;
- iii) The specifications and drawings related to the project in question are relatively poor.

DISCUSSION

The ROWP member accepted that he was in breach of Principle 1 (a, b, c) of the Code of Ethics of the Applied Science Technologists and Technicians of British Columbia; specifically, by the facts of deficiencies in his practice as identified by the investigation.

OUTCOME

The ROWP member accepted the facts determined in the investigation and agreed to the following remedies of a Stipulated Order by the Practice Review Board:

- i) The ROWP member was required to show proof of having corrected the problems related to the onsite wastewater system in question;
- ii) That the next five (5) of the ROWP member's Health Authority Filings for pressurized systems were required to be reviewed and approved by a competent professional or ROWP, prior to a filing submission to a Health Authority.

It was recommended that the member should use the professional oversight of his pressurized work to create a career portfolio, such that the Practice Review Board could assess that this oversight for his pressurized services had taken place. The cost of having a third party review the member's sewerage system design plans would be at his expense.

CASE #06-40

STATEMENT OF COMPLAINT

That two ASTTBC Registered Onsite Wastewater Practitioners (ROWPs) failed to provide satisfactory onsite wastewater services.

BACKGROUND

A home owner submitted a letter stating a chronological sequence of events regarding the installation of a septic system in which the services of two ROWP members was brought into question.

INVESTIGATION

The ROWP members were provided with the home owner's letter and responded with a detailed report of the technical services supplied, including those services of the component supplier and electrician involved in the project. Anecdotal evidence suggested that the reason for the letter was to aid the home owner in pending legal action for nonpayment.

DISCUSSION

ASTTBC advised the home owner that a preliminary investigation found no direct or obvious evidence of a breach of the ASTTBC Code of Ethics with regard to the practice of the two ROWPs in question. The home owner was further advised that if they wished to proceed with this matter they must submit a signed, formal complaint, outlining specific details for the complaint in respect to the concerns regarding the ROWP members' practice. Nothing further was received from the complainant.

OUTCOME

Since the home owner did not submit a formal complaint against the ROWP members, the Practice Review Board determined that no further action was required and that the file be closed. The home owners were advised that should they wish to submit a formal, written and signed complaint, further investigation would be done at that time.

CASE #06-41

STATEMENT OF COMPLAINT

That an ASTTBC Registered Onsite Wastewater Practitioners (ROWP) failed to meet the requirements of the Ministry of Health's (MoH) Standard Practice Manual in the provision of onsite wastewater services.

BACKGROUND

The local Health Authority expressed concerns regarding the practice of a ROWP member as related to the installations of two sewage systems.

INVESTIGATION

The facts upon which the complaint is based are:

- a) The first onsite wastewater system installed failed to meet the requirements of the MoH Standard Practice Manual (SPM) causing the owner of said property to facilitate a Health Authority (HA) required upgrade, to an affected water system, at his own expense. Specific issues identified by the HA as to the member's practice included:

- i) Installation of a septic system under the SPM required set back distance from a water source.
 - ii) Failure to provide the owner and HA with appropriate documentation which included a copy of a letter of certification or maintenance plan.
 - iii) Deficiencies related to the accuracy of the filing documents, including plan dimensions shown.
- b) The second system installed was completed without adhering to the required filing process, for which the ROWP member was issued a violation ticket by the HA.

DISCUSSION

The ROWP member accepts that he was in breach of Principle 1 (a, b, c) of the ASTTBC Code of Ethics; specifically, by:

- i) Failing to follow the MoH Standard Practice Manual at the first site installation, causing the owner of said property expense due to this failure; submitting inaccurate filing documentation to the HA and failing to provide all the required appropriate filing documentation to the HA and property owner;
- ii) Failing to submit appropriate filing documentation to the HA for the second site installation.

OUTCOME

The Practice Review Board expedited the resolution of this matter by the ROWP member agreeing to a Stipulated Order, which included the following conditions:

- i) The ROWP member agreed to make acceptable compensation to the owner of the first installation site for the remedial work required to his property. The owner was requested to verify the compensation agreement in a letter to ASTTBC;
- ii) The ROWP member was required to submit an acceptable 500 word report, to the Practice Review Board, addressing the issues of concern raised about his practice, by the HA, primary relating to:
 - SPM requirements for set backs to water sources;
 - Accuracy of filing documents, including plans and drawings;
 - How he will ensure compliance in the future to HA Filing requirements.

CASE #06-44

STATEMENT OF COMPLAINT

That an ASTTBC Registered Onsite Wastewater Practitioners (ROWP) installed four sewerage systems without consultation with the local Health Authority or provision of the appropriate Filing documents, prior to construction of the systems.

BACKGROUND

A local Health Authority issued a violation ticket to the ROWP member for failing to comply with the requirement order, specifically with failing to provide the required Filing on four sewerage systems prior to construction, per the Ministry of Health's Sewerage System Regulation.

INVESTIGATION

The facts upon which the complaint is based are that:

- i) The ROWP member installed the aforesaid sewerage systems without consultation with the local Health Authority or provision of the required and appropriate Filing documents, prior to construction of the systems.

- ii) The Health Authority issued a violation ticket for failing to comply with a requirement order, specifically with failing to provide the required Filing on the aforesaid systems prior to construction, per the Ministry of Health's Sewerage System Regulation.
- iii) ASTTBC considers the failure of a ROWP to appropriately provide a Filing with the local Health Authority a serious matter and a breach of Principle 1 of the Code of Ethics.
- iv) The ROWP member has admitted to installing the aforesaid sewerage systems without having supplied the appropriate and required Filing documents prior to construction.

DISCUSSION

The ROWP member expressed his desire to expedite the resolution of this matter by means of a Stipulated Order and accepts that he was in breach of Principle 1 of the ASTTBC Code of Ethics; specifically by his actions in violation of the Ministry of Health's Sewerage System Regulation and the Health Authority's Filing requirements.

OUTCOME

The Practice Review Board determined that an appropriate remedy for this offence be a Stipulated Order, the conditions of which are as follows:

- i) The ROWP member was required to provide to the Practice Review Board an acceptable letter assuring the Board of his future compliance with the Filing process of the local Health Authority
- ii) The ROWP member was required to immediately provide to the Practice Review Board his Canadian Technology Human Resources Board (CTHRB) Professionalism in Practice Module for review. A failure to have completed the CTHRB Professionalism in Practice Module to a standard acceptable to the Board would have resulted in additional censure requirements.

CASE #06-46

STATEMENT OF COMPLAINT

That an ASTTBC Registered Onsite Wastewater Practitioner (ROWP) was guilty of 'unprofessional conduct'.

BACKGROUND

A home owner alleged that a ROWP member gave her three verbal quotes with regard to a septic system that ranged anywhere from \$4000 to 'less than \$15,000'. The home owner further alleged that the ROWP member did not provide a written quote; that he became agitated and yelled at her when she tried to discuss the quotes with him and that he threatened to have her house condemned because it had no septic system.

INVESTIGATION

The home owner was unable to submit any evidence to substantiate her allegations and this appears to be a complaint with conflicting arguments. The ROWP member claimed that the statements made by the home owner were all incorrect with regard to the quotes, him yelling at her and threatening to have her house condemned.

DISCUSSION

The information from both parties was reviewed and there was a clear conflict in the statements made by the parties. It became apparent that this was a case of he said/she said and would be impossible for the Practice Review Board to resolve.

OUTCOME

Since there is no substantiated evidence of unprofessional conduct or a breach of the ASTT Code of Ethics by the ROWP member no action could be taken with respect to the member's practice and the file was closed. The complainant was advised that if evidence to substantiate this complaint was received at a later date the file will be re-opened.

**Report from Practice Review Board For Complaint Cases Resolved In
TITLES ENFORCEMENT - (cases received since January 1, 2005)**

CASE #05-01

STATEMENT OF COMPLAINT

That an individual was using the 'CSO' title designation on his business cards while not registered with ASTTBC in the Technical Specialist Construction Safety Officer group.

BACKGROUND

At about the same time as we received this complaint it was noted that, while ASTTBC had an official mark for the term 'Construction Safety Officer', it had not in fact secured a trade mark for the 'CSO' designation. ASTTBC's Legal Counsel was contacted regarding this matter and immediately started the process of registering this Mark on behalf of ASTTBC.

INVESTIGATION

A letter was sent to the individual, along with a copy of his business card showing that he was using the CSO designation. The individual never responded to our letter. In the meantime, a staff search for the individual, against whom the complaint had been laid, indicated that he may no longer be in the area (no record of the company he was reported working for, phone number or address).

DISCUSSION

ASTTBC Legal Counsel suggested that we close this case, given the circumstances and the fact that until the title registration designation for 'CSO' is completed, we cannot act on this complaint.

OUTCOME

The ASTTBC Practice Review Board (PRB) closed this file with no further action required, since Legal Counsel had not yet finalized the protection of the CSO designation and we could not locate the individual against whom the complaint was laid.

CASE #05-03

STATEMENT OF COMPLAINT

A non-certified/registered individual was using the ASTTBC official trade mark designation of 'AScT' in email correspondence.

BACKGROUND

An ASTTBC member notified and sent a copy of an email he had received from a non-member who used the designation 'AScT' in his email correspondence.

INVESTIGATION

A cease and desist letter was sent to the individual in question.

DISCUSSION

In a reply by email to ASTTBC the individual indicated that he will cease using the 'AScT' designation.

OUTCOME

Since the individual had indicated that he would immediately cease using the 'AScT' designation, the Practice Review Board sent a letter to the individual advising that that this matter was closed and no further action would be required.

CASE #05-04

STATEMENT OF COMPLAINT

That an individual was using 'CHI' in his web site advertising while a non-member of ASTTBC.

BACKGROUND

An internet search of a web site revealed that an individual was using 'CHI' in his web site advertising.

INVESTIGATION

A cease and desist email letter was sent to the individual requesting that he cease using 'CHI' and submit written confirmation to this effect. Further monitoring of his web site revealed that the individual removed all references to 'CHI' on his web site.

DISCUSSION

The individual had been asked to send written confirmation that he will cease using this mark. Although ASTTBC did not receive written confirmation from him, a check of his web site revealed that he had made the requested changes.

OUTCOME

A letter was sent to the individual from the Practice Review Board advising that this matter was closed and no further action was required as, by changing the contents of his web site, he had met the requirements of our cease and desist order.

CASE #05-05

STATEMENT OF COMPLAINT

That two individuals, operating a home inspection company, were using the term 'Certified Home Inspector' on a web site and on a business card, while not registered with ASTTBC in the Technical Specialist House/Property Inspection Certification Program.

BACKGROUND

ASTTBC has as an official trade mark for the term 'Certified Home Inspector'.

INVESTIGATION

Cease and desist letters were sent to the individuals and, as no response was received by the specified date, follow up 'email' letters were sent.

DISCUSSION

One individual advised ASTTBC that he was no longer using the business cards and that the web site belonged to the other individual involved with this case. He also requested an application package for possible ASTTBC registration. The other individual in the case advised ASTTBC that he would correct his web site 'very soon', however, after one week it was not changed and therefore a compliance reminder email was sent, advising that if his web site was not changed the file would be forwarded to ASTTBC Legal Counsel for further action. Although no letter of compliance had been received by ASTTBC from the individual, a subsequent check of the web site found the changes had been made to comply with the ASTTBC cease and desist order.

OUTCOME

The Practice Review Board closed the case, since both individuals had appeared to have complied with the ASTTBC cease and desist orders.

CASE #05-09

STATEMENT OF COMPLAINT

That an individual was using an ASTTBC protected title by Provincial Regulation (Registered Onsite Wastewater Practitioner) in his Yellow Pages advertising and was not registered with ASTTBC.

BACKGROUND

ASTTBC records indicated that the individual had requested and received an application package to become a member of the Onsite Wastewater special certification group. However, at the time of the complaint, he had not submitted the application to ASTTBC.

INVESTIGATION

An order to cease and desist was sent to the individual requiring that he:

- Cease using the Registered Onsite Wastewater Practitioner title
- Advise his clients that he is not a 'Registered Onsite Wastewater Practitioner'
- Have his advertising in the Yellow Pages amended accordingly in the next printing.

DISCUSSION

An email confirming the individual's intention to cease using the Registered Onsite Wastewater Practitioner title/designation was received.

OUTCOME

The Practice Review Board acknowledged the individual's compliance to the cease and desist order and closed the case. It should be noted that the individual is now registered as a Registered Onsite Wastewater Practitioner (ROWP).

CASE #05-12

STATEMENT OF COMPLAINT

That a web site for a building inspection service company indicated falsely that its employees were 'certified members of ASTTBC'.

BACKGROUND

Companies can only claim that their employees are 'certified members of ASTTBC' if all technical service employees are appropriately certified and registered.

INVESTIGATION

The ASTTBC data base indicated that the owner of the company was not a certified member of ASTTBC but rather an Associate Member and an 'Inspector-in-Training' with the British Columbia Institute of Property Inspectors. Further more, that the company had no other employees who were members of ASTTBC.

DISCUSSION

ASTTBC sent an email to the Associate Member requiring that he immediately revise his web site content regarding references to 'certified members of ASTTBC'. The web site was not changed and the individual did not respond to the email request, therefore, a 'reminder' letter was subsequently sent. Shortly thereafter, it was noted that the web site had been amended as requested and a faxed note was received from the Associate advising that the web site had been amended to read 'as members of ASTTBC'. It should be noted that an Associate Member of ASTTBC can refer to their status as a 'member' of ASTTBC provided that they do not imply that they are a certified or registered member.

OUTCOME

The Practice Review Board acknowledged the member's compliance with ASTTBC's request to remove reference to 'certified' members of ASTTBC on his web site and the file was closed.

CASE #05-13**STATEMENT OF COMPLAINT**

A non-certified/registered individual was using the ASTTBC official trade mark designation 'AScT' on his business cards.

BACKGROUND

It came to the attention of ASTTBC that a non-member was using the 'AScT' designation on his business cards.

INVESTIGATION

ASTTBC sent the individual in question a cease and desist letter.

DISCUSSION

The individual contacted ASTTBC by telephone and faxed a letter the same day to confirm that he would immediately cease using the 'AScT' designation.

OUTCOME

That since the individual had complied with the cease and desist order, the Practice Review Board sent a letter thanking him for his compliance, advising that this matter was closed and that no further action was required.

CASE #5.3.4**STATEMENT OF COMPLAINT**

That an individual was using the Canadian Council of Technicians and Technologists (CCTT) protected designation 'CET' on email correspondence in British Columbia while not a registered and certified member of ASTTBC.

BACKGROUND

ASTTBC is required to protect CCTT titles and designations within British Columbia. ASTTBC was advised by a member of the use of the 'CET' designation by the individual in question and submitted a copy of email correspondence indicating the inappropriate use of the CCTT protected designation.

INVESTIGATION

The individual was sent a cease and desist letter by ASTTBC asking that he send written confirmation that he would cease using the unauthorized designation 'CET'.

DISCUSSION

The individual advised ASTTBC that he was a member in good standing with OACETT; however, ASTTBC staff confirmed with OACETT that he had been struck from OACETT membership. In a conversation with ASTTBC, the individual confirmed that he was no longer using the 'CET' designation and that he would reinstate his membership with OACETT and transfer membership to ASTTBC. OACETT subsequently confirmed that the individual had reinstated his membership and that he intended to transfer his membership to ASTTBC.

OUTCOME

That since the OACETT member had complied with our cease and desist order in his use of the designation within British Columbia, the Practice Review Board sent a letter thanking him for his compliance, advising that this matter was closed and no further action was required.

Note: The individual in this case has since become a registered and Certified Technician (CTech) with ASTTBC.

CASE #05-14

STATEMENT OF COMPLAINT

That a training agency was using the term 'Certified Home Inspectors' in their web site advertising, which is a term protected by an ASTTBC official trade mark.

BACKGROUND

A review of the web site by staff indicated that a training agency was using 'Certified Home Inspectors' in their advertising.

INVESTIGATION

An email message was sent to the training agency advising them of the infringement of the ASTTBC protected title. The training agency replied stating that they had not been aware of the infringement of the copyright and advised that they would have their web site and any other literature changed within the next couple of weeks.

DISCUSSION

ASTTBC staff continued to monitor the web site for several months and found that it was not changed as indicated. ASTTBC Legal Counsel was then requested to write to the training agency, requiring that they cease using the 'Certified Home Inspectors' title. Subsequently, the agency sent an email message to Legal Counsel advising that they had now changed the web site and apologized for any misunderstanding. Further follow up by staff indicated that the web site was revised, removing the reference to 'Certified Home Inspectors'.

OUTCOME

The Practice Review Board sent a closure letter to the training agency thanking them for their compliance to the ASTTBC cease and desist order and closed the case.

CASE #05-15

STATEMENT OF COMPLAINT

That an individual was using the ASTTBC registered official trade mark 'Certified Home Inspector' in Super Pages advertising.

BACKGROUND

ASTTBC had been provided with a copy of the offending advertising.

INVESTIGATION

ASTTBC sent the individual a cease and desist letter requiring that he cease using the title. Three follow up contacts with the individual in question, by ASTTBC Staff, to reinforce and clarify ASTTBC's concerns.

DISCUSSION

Written confirmation was received from the individual in question that he would cease using the title 'Certified Home Inspector'.

OUTCOME

The Practice Review Board acknowledged the individual's compliance with the ASTTBC cease and desist order and the case was closed.

CASE #05-16

STATEMENT OF COMPLAINT

That an individual was using the ASTTBC registered official trade marks 'Certified Home Inspector' and 'CHI' on his brochures and business cards.

BACKGROUND

A staff member from a Registrant Member's office visited another individual's office, where she was given a brochure and business card containing the term and title designation 'Certified Home Inspector' and 'CHI'; the individual was not certified or registered with ASTTBC.

INVESTIGATION

A recent and similar complaint involving this individual (see synopsis below) had been received in the past and for that reason it was determined that the individual be referred to ASTTBC Legal Counsel for action. The individual was sent a cease and desist order advising that legal proceedings would be launched against him if confirmation of his intention to cease and desist from using these Registered Marks was not received within a specified time frame.

Prior Complaint - 2004

In 2004, the individual was found to be using the ASTTBC registered official trade marks 'Certified Home Inspector' and 'CHI' on his web site. Subsequently, after correspondence from ASTTBC's Legal Counsel, the individual sent an email letter confirming that he would comply with the cease and desist order and apologized for his 'misunderstanding' of the use of these marks.

DISCUSSION

ASTTBC Legal Counsel received an email letter advising that the individual in question had ceased using the titles and he further advised that he would have his brochures and business cards reprinted.

OUTCOME

The Practice Review Board closed this case, due to compliance of the cease and desist order by the individual in question, and a letter was sent from ASTTBC Legal Counsel advising the individual that such matters are treated seriously by the courts and he would be well advised to consider his conduct.

CASE #05-24

STATEMENT OF COMPLAINT

That a CTech Member was using the ASTTBC registered official trade mark 'CHI' on his marketing brochures.

BACKGROUND

A copy of the CTech Member's brochure was provided to ASTTBC that indicated his inappropriate use of the ASTTBC registered official trade mark of 'CHI'.

INVESTIGATION

ASTTBC sent a letter to the member, with a copy of the brochure in question, asking that he cease using the ASTTBC Registered Federal Mark 'CHI', which the member was found to be using when not certified or registered to do so.

DISCUSSION

The member was a certified technician but was only an Inspector-in-Training with the Property Inspectors Technical Specialist Group. The member sent a letter to ASTTBC advising that he had ceased using the CHI title/designation and apologized for his actions.

OUTCOME

The Practice Review Board acknowledged the member's compliance with ASTTBC's cease and desist order and use of the ASTTBC registered title 'CHI'; the case was closed.

CASE #05-27

STATEMENT OF COMPLAINT

A copy of a company's fire protection tag, with the ASTTBC logo on it, was provided to ASTTBC and the tag was not stamped by a Registered Fire Protection Technician.

BACKGROUND

The fire protection tag was attached to fire protection equipment, which implied that the person doing the inspection and testing of the equipment was a Registered Fire Protection Technician with ASTTBC.

INVESTIGATION

An investigation found that the individual who had used the fire protection tag was no longer employed by the company. A letter was sent to the manager of the company advising that they must immediately cease using any fire protection tags displaying the ASTTBC logo if the tag is not applied by an ASTTBC Registered Fire Protection Technician.

DISCUSSION

The manager advised ASTTBC that he would, in the future, ensure any technicians using the ASTTBC logo on their tags were in fact Registered Fire Protection Technicians with ASTTBC.

OUTCOME

The Practice Review Board acknowledged the company's compliance to the cease and desist order issued by ASTTBC and closed the case.

CASE #06-32

STATEMENT OF COMPLAINT

That a non-member was using 'CHI' and 'Certified Home Inspector' on his inspection reports when not certified and registered with ASTTBC in the home inspection technical specialist group.

BACKGROUND

An individual thought that, as a member of a national group offering registration in home inspection, he could use the ASTTBC official trade marks of 'Certified Home Inspector' and 'CHI'.

INVESTIGATION

A cease and desist letter was sent to the individual asking for a letter of compliance to the order. The individual advised ASTTBC that he would refrain from using the title/designation while he was awaiting a reply from the national group's legal counsel.

This was followed up by ASTTBC's Legal Counsel with a letter to the individual advising that these two marks are official marks, owned by ASTTBC and that ASTTBC had exclusive right to use the marks in all of Canada.

DISCUSSION

An email from the individual was received by ASTTBC Legal Counsel apologizing for his unauthorized use of these two marks and further advising that the legal counsel of the national group, to which he belonged, had confirmed that they do not own the official mark 'CHI' or 'Certified Home Inspector'.

OUTCOME

The Practice Review Board acknowledged the individual's compliance with the cease and desist order and closed the case.

CASE #06-33

STATEMENT OF COMPLAINT

A generator was found to have a fire technician's tag that contained an invalid ASTTBC stamp.

BACKGROUND

The stamp was used by a member who had been provided an original 'interim' stamp that was issued when the program was started in 1996. The following Bulletin was sent to the members in the spring of 2001:

New Technician Stamp - As of July 1, 2001 all Registered Fire Protection Technicians in the lower mainland area and all "Interim" certified Technicians in other areas of BC will be required to use the new stamp that was issued. The new stamp will identify which disciplines for which the technician has full certification.

INVESTIGATION

The member stated in a letter that he did not know that he had to return his old stamp nor did he know that he could not use it. All technicians were adequately advised that the old round interim stamp was to be returned and was not to be used.

DISCUSSION

The member was removed from the list of technicians in 1997; therefore it is possible that he did not get notification of the expired interim stamp. The member was reinstated as a Fire Protection Trainee and he returned the invalid 'interim' stamp that was in his possession.

OUTCOME

The Practice Review Board sent a letter to the member advising him of his obligations as a Trainee and included a copy of the Fire Protection Trainee Guideline and Technician Stamp Practice Guidelines for his records. The member was also advised that this file was now closed and no further action was required.

CASE #06-36

STATEMENT OF COMPLAINT

That a technical Specialist Registrant member was using the title CTech in his Directory advertising rather than the title of his certification, which was ROWP.

BACKGROUND

The member was a new Onsite Wastewater Technical Specialist Registrant (ROWP) with ASTTBC.

INVESTIGATION

The ASTTBC sent a cease and desist letter to the member suggesting that perhaps he did not fully understand the classifications of membership within ASTTBC, and advised him that he is a Technical Specialist 'Registrant' rather than an ASTTBC certified member, as defined by the Applied Science Technologists and Technicians Act.

DISCUSSION

A letter of compliance was received from the Registrant member advising that the use of the CTech designation was an error on his part and a misunderstanding of the classification of membership within ASTTBC.

OUTCOME

The Practice Review Board closed the case, acknowledging the Registrant's explanation and his compliance with the ASTTBC cease and desist order.

CASE #06-37

STATEMENT OF COMPLAINT

That a company was using fire protection tags similar to those provided by ASTTBC's Registered Fire Protection Technicians (RFPT) and applying a stamp which copied the ASTTBC RFPT Stamp design.

BACKGROUND

The company clearly had infringed on ASTTBC's rights under the Section 27 of the Copyright Act.

INVESTIGATION

ASTTBC's Legal Counsel sent a cease and desist letter to the company stating "Due to the virtually identical nature of your stamp, there is little doubt that there has been a deliberate copying". The company was required to:

- Immediately cease using a stamp in the form of a square within a square, or any form that is similar to it; and
- Provide a written undertaking that the company had ceased using the infringing stamp, and that it would not further infringe on ASTTBC's copyright and trade mark rights in the future.

DISCUSSION

ASTTBC's Legal Counsel was notified by the owner of the company that they had destroyed the stamp and apologized for their error in using it.

OUTCOME

The Practice Review Board accepted the response from the company to comply with the cease and desist order and closed the case.

CASE #06-39

STATEMENT OF COMPLAINT

A Technical Specialist Registrant expressed concern that someone was altering his fire protection tags, which were previously attached to equipment in a company for which he had provided inspection services. Those alterations were not authorized by the Registrant Member.

BACKGROUND

The Registrant Member was originally contracted to do inspection and testing of fire extinguishers by a company. This work was then subsequently contracted out to another contractor, who could not be identified. A copy of the Registrant's stamped tag had an added strip down the side of the tag beside the 'months' column, which was being used by someone to put his/her initials beside the month indicating an inspection had been done.

INVESTIGATION

The company is not open to the public and therefore ASTTBC could not gain access to the necessary areas of the site to investigate. ASTTBC contacted a company representative, who was in charge of the fire safety at the site, and explained the concern of the existence of possible modified fire protection tags on site. ASTTBC was told by the company representative that he would check out to see if such tags existed.

DISCUSSION

The company representative contacted ASTTBC and indicated that he could not find any altered tags on the company's fire extinguishers. The Registrant Member was advised of the company response and asked how he would like ASTTBC to proceed with the complaint. Since the original information on the altered tags had come to the Registrant by way of a third party employee of the company, the Registrant requested that we put the file in abeyance for now. The Registrant was concerned that the individual who had supplied him with the information may have his employment compromised as a result of this issue.

OUTCOME

The Practice Review Board accepted the request of the Registrant Member and determined that no further action was possible in this case and that the case be closed. Should new evidence in the future indicate that this issue has not been rectified by the company in question, the Board would reopen the case.

CASE #5.4.1 - Misc

STATEMENT OF COMPLAINT

That a college web site listed an instructor as having ASTTBC's certification and registration as an Accredited Timber Evaluator (ATE).

BACKGROUND

The instructor in question was once a member of the ASTTBC Timber Cruisers Technical Specialist group; however, his membership had been cancelled several years previous for non-payment of annual fees.

INVESTIGATION

ASTTBC contacted the Dean of the college advising of the error on their web site regarding the credentials of the instructor in question.

DISCUSSION

The Dean of the college responded to ASTTBC that a correction to the web site had been made and all information referring to certification and registration with ASTTBC, for the individual instructor, had been removed. A web site check showed that in fact the correction was made. The instructor in question was not contacted regarding the error on the web site, which was considered an oversight on the part of the college.

OUTCOME

The Practice Review Board accepted the college's correction to their web site as complying with the request to appropriately show that their instructor was not a member of ASTTBC and closed the case.

CASE #06-47

STATEMENT OF COMPLAINT

An inappropriately signed fire protection tag, belonging to an ASTTBC Technical Specialist Registrant, was found on a fire extinguisher.

BACKGROUND

The inappropriately applied fire protection tag was found at a hotel and convention centre and was stamped with an ASTTBC Fire Protection Technician's stamp, but was not signed.

INVESTIGATION

ASTTBC contacted the member, who was assigned the stamp in question, and was advised that someone had used his fire protection tag without his knowledge. The member was then asked to explain why he was pre-stamping his tags, which is not permitted by the Registered Fire Protection Technician Stamp Practice Guidelines. The member advised that he was not aware he could not pre-stamp tags and stated that he would immediately cease this practice and that this situation would not happen again. The member was sent a copy of the Stamp Guideline for his information and compliance.

DISCUSSION

The member admitted that he had made an error in pre-stamping the tags and advised that he will immediately cease this practice.

OUTCOME

The Practice Review Board accepted the member's assurance that he would no longer pre-stamp his fire protection tags and determined that no further action was required; the case was closed.

CASE #06-48

STATEMENT OF COMPLAINT

That a Technical Specialist Registrant Member inspected and applied a fire protection technician tag to a standpipe/hose system, which is a professional service he is not certified or registered to provide.

BACKGROUND

A copy of the fire protection technician's tag in question was received by ASTTBC for the inspection of a standpipe/hose system.

INVESTIGATION

The stamp identified that the member was only certified and registered for Emergency Lighting and Fire Extinguisher inspection and testing. A copy of the complaint was sent to the Registrant for his comments.

DISCUSSION

The member advised ASTTBC that he had been doing this work for many years and was unaware that his certification did not allow him to provide this level of service. He assured ASTTBC that he would immediately cease doing this work until such time as he has upgraded his certification in this area.

OUTCOME

The Practice Review Board accepted the member's explanation and admission of his misunderstanding of the level of his certification/registration and his assurance that he will immediately cease such practices until his certification is upgraded. The Board determined that no further action was required and the case was closed.

CASE #06-49

STATEMENT OF COMPLAINT

That an ASTTBC Associate Member and Associate Inspector of the British Columbia Institute of Property Inspectors was using the term 'BC Registered Home Inspector' and ASTT logo in an unauthorized and inappropriate manner.

BACKGROUND

The Associate Member's business cards contained the ASTT logo along side of the wording 'BC Registered Home Inspector'.

INVESTIGATION

ASTTBC issued a cease and desist letter to the Associate Member.

DISCUSSION

The Associate member was clearly misleading the public to believe that he was a certified and registered member of ASTTBC. The Associate Member advised that he had revised his business cards to read 'Home Inspector' and had removed the ASTTBC Logo from the cards. ASTTBC Legal Counsel advised ASTTBC that the member had complied with the cease and desist order and recommended that the matter not be pursued further.

OUTCOME

The Practice Review Board acknowledged that the Associate Member was no longer using the ASTT logo on his business cards and had changed the wording on his cards to clarify that he is not a certified and registered house inspector with ASTTBC. On advice from Legal Counsel, no further action was determined to be necessary and the case was closed.

CASE #06-50

STATEMENT OF COMPLAINT

An individual advised ASTTBC that he planned to use the designation/title 'CHI – Certified Home Inspector' in Ontario.

BACKGROUND

The individual advised ASTTBC by email that he had searched the ASTTBC web site and discovered no reference to the designation CHI as it pertains to Certified Home Inspector and that he believed the designation 'CHI' referred to 'Certified House Inspector'. He further advised that he was going to include the designation 'CHI - Certified Home Inspector' on all of his literature and web site.

INVESTIGATION

ASTTBC's Legal Counsel sent a cease and desist email letter to the individual advising that ASTTBC is the owner of the Official Marks CHI and Certified Home Inspector.

DISCUSSION

The individual responded that it was his understanding that the 'CHI' is the designation for 'Certified House Inspector' and that he will therefore continue to use 'Certified Home Inspector'.

The individual was advised that ASTTBC had official trade marks for both of the 'Certified Home Inspector' and 'Certified House Inspector' terms. All correspondence with the individual was by email and a search by Legal Counsel could not identify an address for either him or his business. Legal Counsel advised ASTTBC that it was questionable whether the Practice Review Board had jurisdiction over a person living in Ontario.

OUTCOME

The Practice Review Board accepted Legal Counsel's advice on the questionable enforcement jurisdiction of the Board for an individual and non-member living and conducting business in Ontario. The file was closed and it was determined that no further action was required.

CASE #06-55

STATEMENT OF COMPLAINT

That a Registered Onsite Wastewater Practitioner (ROWP) was using the term 'Inspector' in advertising in such a way that may lead the public to believe that the ROWP member was certified for that level of sewerage service by ASTTBC.

BACKGROUND

A copy of an advertisement was submitted to ASTTBC which showed that the ROWP member was using the title 'Inspector' which may have been construed by the public to believe that he was certified by ASTTBC as 'Private Inspector- Residential'.

INVESTIGATION

The ROWP member was sent a letter requiring that he immediately change his advertising per a cease and desist order.

DISCUSSION

The ROWP member subsequently changed his advertising and provided a copy of his new advertisement for approval by ASTTBC. The member's revised advertisement of services was found to be acceptable.

OUTCOME

Since the ROWP member has now complied with the ASTTBC cease and desist order and has made the requested changes to his advertising, the Practice Review Board determined that no further action was required and this case was closed.