

## **TECHNOLOGIST (AScT) AND TECHNICIAN (CTech) CASE SUMMARIES 2018**

Note: Reference to one gender implies all other genders, unless the context requires otherwise.

### **CASE #17-09**

#### **STATEMENT OF COMPLAINT:**

That the Respondent, an Applied Science Technologist (AScT) in the Building discipline, conducted a house inspection on behalf of the Complainant's insurance provider in response to a New Home Warranty claim and prepared a report that did not accurately report on the condition of the dwelling. The complaint further alleged that by doing so, the Respondent had failed to comply with ASTTBC Code of Ethics Principles 3, 6, 7 and 10.

#### **INVESTIGATION:**

The investigation included a review of extensive documentation submitted by the Respondent, who stated that as a representative of the Complainant's insurance provider, he had conducted the inspection to gather information and evidence regarding the homeowner's concern. The Respondent defended his inspection and observations, stating he had done his best to distinguish between facts, assumptions and opinion on the matter, and acted in accordance with the Residential Construction Performance Guide. The Respondent also pointed out that the Builder and homeowner were present at the inspection to allow for transparency and open communication.

The Complainant was unhappy with the Respondent's report, which dismissed the Complainant's concern regarding the deficiencies found in the dwelling. It should be noted that the builder did attempt corrective action to address the deficiencies, however, according to the Complainant this did not satisfactorily address the matter.

#### **PRACTICE REVIEW BOARD RECOMMENDATIONS:**

The PRB reviewed the complaint and was concerned that the Respondent had not done his due diligence in the inspection. There were additional concerns that his professional opinion on the cause of water damage appeared to be biased in favor of the insurance provider. The PRB concluded that the Respondent's actions had been contrary to Principles 3, 4 and 7 of the ASTTBC Code of Ethics and Practice Guidelines. Therefore, the Respondent was required to submit a statement of assurance acceptable to the Registrar that he had read, understood and would abide by the ASTTBC Code of Ethics and Practice Guidelines. The Respondent was also levied a fine of \$250 as a deterrent to future violations of the ASTTBC Code of Ethics and required to undergo a Practice Assessment Review (PAR).

#### **OUTCOME:**

All PRB requirements were accepted by the Respondent, who paid the fine and submitted an acceptable statement of assurance and also provided written acceptance of the requirement to undergo a PAR. ASTTBC would continue to monitor the file to ensure completion of all conditions.

No further action was required and the file was closed.

### **CASE #17-18**

#### **STATEMENT OF COMPLAINT:**

That the Respondent, an Applied Science Technologist (AScT) in the Civil discipline, misrepresented the location of a property line during road construction which negatively impacted a property owner, and did not inform the affected property owner of their rights to compensation as a result of the road widening and related work. The complaint further alleged that construction of a new retaining wall and subsequent

restoration work along the affected property line was not consistent with engineering standards, local bylaws, or best industry practice. The Complainant believed the Respondent was acting contrary to Principles 7, 8, 9, and 10 of the ASTTBC Code of Ethics and Practice Guidelines.

**INVESTIGATION:**

The investigation determined that at the time the project was undertaken, the Respondent worked for an engineering firm involved with the survey, design, tendering and construction management of the project. He was not a sole decision-maker and his role as project manager was to report to the Professional Engineer in charge who certified the work within the project.

The Respondent provided a credible explanation of his role and limited responsibilities during the project, including the challenges faced by all parties involved with seeking solutions to balance the needs of the project with the desires of the property owners.

The Complainant's allegations were not supported by the evidence.

**PRACTICE REVIEW BOARD RECOMMENDATIONS:**

The PRB reviewed the complaint and concluded that there was no evidence to substantiate a violation of the ASTTBC Code of Ethics and Practice Guidelines on the part of the Respondent.

**OUTCOME:**

No further action was required and the file was closed.

**CASE #17-21**

**STATEMENT OF COMPLAINT:**

That the Respondent, an Applied Science Technologist (AScT) in the Mechanical discipline, prepared and submitted mechanical systems drawings for a dental office project that were inaccurate and incomplete. The complaint further alleged that the Respondent did not meet the deadline he had agreed to and was unprofessional in his interactions with the Complainant.

**INVESTIGATION:**

The above allegations, if found to be true, would be contrary to Principles 3, 6 and 7 of the ASTTBC Code of Ethics and Practice Guidelines.

During the course of the investigation, which included a review of all documentation submitted with the complaint as well as the Respondent's comments and files, the Complainant withdrew his complaint to avoid having third parties being drawn into any part of the review.

Although this complaint had been withdrawn, it did not relieve ASTTBC of the obligation to review the Respondent's practice to determine whether or not any violations of the ASTTBC Code of Ethics had occurred. A review of his documentation on the complaint file did not yield any conclusive evidence that he had violated the ASTTBC Code of Ethics and Practice Guidelines.

**PRACTICE REVIEW BOARD RECOMMENDATIONS:**

The PRB reviewed the complaint and investigation findings and concluded that there was no evidence to substantiate a violation of the ASTTBC Code of Ethics and Practice Guidelines on the part of the Respondent.

**OUTCOME:**

No further action was required and the file was closed.

## **CASE #18-02**

### **STATEMENT OF COMPLAINT:**

That the Respondent, an Applied Science Technologist (AScT) in the Building discipline, violated Principle 4 of the ASTTBC Code of Ethics, by recommending a specific bidder in a building envelope renovation project to the Strata Council responsible for the project.

### **INVESTIGATION:**

The complaint alleged that the Respondent's action was a conflict of interest and a violation of ASTTBC Code of Ethics and Practice Guidelines, Principle 4: *Act with integrity towards clients or employers, maintain confidentiality and avoid a conflict of interest but, where such conflict arises, fully disclose the circumstances without delay to the employer or client.*

The investigation found that the Respondent's company was contracted by the above-referenced Strata Council to provide engineering consulting services for the pre-construction phase of a building envelope project, and he acted as the representative of his company in this project. The Strata Council reviewed and examined the bids, then approved the selection of the Contractor for the work, based on a combination of experience, financial ability, technical skills, schedule, and costs. As the Respondent was their Consultant on the project, the Strata Council sought his advice and input into these matters, which would be expected given his role. The Complainant had also brought the conflict of interest issue to the attention of the Strata Council, which appeared to have carried out its due diligence, and did not support this allegation.

In response to specific allegations regarding the Respondent's participation on trips paid for by other companies, including the Contractor on the project, the Respondent advised that, in some cases he had paid for the trip with a combination of his own personal funds and through his company's sponsorship of the Contractor's charitable foundation annual fundraising event; whereas other trips were professional development trips to learn more about manufacturing processes and related technologies relevant to his field of work. The Respondent did not provide a written notice of a conflict of interest because he believed no conflict ever existed.

### **PRACTICE REVIEW BOARD RECOMMENDATIONS:**

The PRB reviewed the complaint and investigation findings and concluded that there was insufficient evidence to support the alleged conflict of interest that would substantiate a violation of the ASTTBC Code of Ethics and Practice Guidelines.

However, the PRB was concerned that while the Respondent may have undertaken what could be classified as Continuing Professional Development in learning about new industry-related technology, or participated in a humanitarian aid mission organized by a contractor, participation in such activities could become a sensitive issue and have the potential to raise questions, however altruistic the intent. Not so much because of any unethical activity, but because it could potentially create a perception of a conflict of interest.

Therefore, to reinforce the importance of Principle 4 of the Code of Ethics, to avoid a conflict of interest, the PRB required the Respondent to submit a statement of assurance, acceptable to the Registrar, that he understood and would abide by the ASTTBC Code of Ethics and Practice Guidelines.

### **OUTCOME:**

The PRB requirement was accepted by the Respondent, who submitted an acceptable statement of assurance. No further action was required and the file was closed