



District Court Boulder County, Colorado 1777 Sixth St Boulder CO 80302 Phone: 303-441-3750 Fax: 303-441-4750	<div style="text-align: center;">   COURT USE ONLY </div>
Plaintiff(s): International Association of Certified Home Inspectors, Inc. , a Colorado Non-Profit Corporation; v. Defendant(s): Northern Colorado Chapter of ASHI	
MARK S. COHEN THE COHEN LAW GROUP A Professional Corporation P.O. Box 617 110 Snyder Street Nederland, CO 80466 Phone Number: (303) 258-0561 mark@cohenslaw.com Atty. Reg. #: 13178	Case Number: Division Courtroom
COMPLAINT	

Plaintiff alleges:

PARTIES

1. Plaintiff, International Association of Certified Home Inspectors (“INTERNACHI”) is a Colorado Nonprofit Corporation and is also a tax exempt trade association under Section 501(C)(6) of the Internal Revenue Code.

2. Plaintiff’s address is 1750 30th Street, Ste. 301, Boulder, Colorado 80301.

3. Defendant, Northern Colorado Chapter of ASHI (NCCASHI) is a Colorado nonprofit corporation. ASHI is the American Society of Home Inspectors, Inc. (ASHI). ASHI, which is not a defendant in this action, is an Illinois corporation.

4. Defendant’s website does not list an address, but lists the President of NCCASHI as Duane Younger of Twin Peaks Inspections. Mr. Younger’s business address is 2090 Mathews Ave, Fort Lupton, CO 80621-7748. The Colorado Secretary of State’s website

shows that Defendant is delinquent and lists a mailing address for Defendant c/o Chris N. Elliott of 1714 Topaz Drive, Suite 125, Loveland, CO 80537

JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter at issue because this is a civil action for damages and/or equitable relief. Colo. Const. Art. VI, § 9.

6. This Court has personal jurisdiction over Defendant because it is a Colorado nonprofit corporation. Its members are Colorado residents engaged in the business of home inspections in Colorado. NCCASHI transacts business in Colorado, holds meetings in Colorado, and solicits members in Colorado.

7. Venue is proper in this Court pursuant to C.R.C.P. 98 because an action for tort may be tried in the county where the tort was committed. Further, Plaintiff believes some members of NCCASHI live and work in Boulder County; Defendant's website lists Boulder County as an area that the Defendant serves.

GENERAL ALLEGATIONS

8. The home inspection industry is made up primarily of individuals who conduct home inspections as sole proprietors or through single-owner corporations or limited liability companies.

9. Home inspections have become common in the real estate industry as part of the buying and selling of residential homes, and they are usually performed on behalf of prospective buyers.

10. Generally, home inspectors market their services through real estate agents, through affiliations with trade associations, and through direct marketing to consumers.

11. There are three major national trade associations representing the interests of home inspectors. They are the Plaintiff ("INTERNACHI"), the National Association of Home Inspectors ("NAHI"), and the American Society of Home Inspectors ("ASHI").

12. There is significant competition between the trade associations in that they compete for members to join their individual associations, collect dues and attempt to help market the services of their members.

13. INTERNACHI is the largest of the three associations, with a total of more than 9,500 members.

14. Defendant maintains a website that is visible to the public, including consumers in Colorado, at all times. The URL is www.ncc-ashi.org.

15. Defendant's website, on its homepage, states, "ASHI is the oldest and largest society of home inspectors in North America."

16. Upon information and belief, ASHI actually has fewer than 5,000 members.

17. By publicly claiming that ASHI is the largest association of home inspectors in North America when it is not, Defendant is harming Plaintiff, Plaintiff's members, and consumers in Colorado.

18. INTERNACHI has worked hard to become the largest association of home inspectors in North America.

19. Many consumers believe the largest association is necessarily the best association and that the largest association will have the most qualified inspectors. Therefore, they prefer to hire home inspectors that are members of the largest association of home inspectors.

FIRST CLAIM FOR RELIEF
(Deceptive Trade Practices)

20. The foregoing allegations are incorporated into each claim for relief. The allegations in any claim for relief are incorporated into all claims for relief.

21. By falsely claiming that ASHI is the largest association of home inspectors (and thereby necessarily stating that INTERNACHI is not the largest association), Defendant engaged in deceptive trade practices that misled the public by leading the public to believe ASHI's members are members of the largest association of home inspectors when, in fact, that is not true. Defendant's actions also cause confusion as to which association is the largest because INTERNACHI also publicly advertises itself as the largest association of home inspectors.

22. Defendant's false claim that ASHI is the largest association violates Section 6-1-105(1), C.R.S. in multiple ways by representing that Defendant's members offer services under the auspices of the largest association of home inspectors when, in fact, that is not true.

23. INTERNACHI, its members, and consumers have been harmed by Defendant's deceptive trade practices.

WHEREFORE, Plaintiff prays for damages as may be proven at trial, for damages pursuant to Section 6-1-113(2), C.R.S., for costs and attorney's fees to the extent allowed by law, and for such other relief as the Court deems just.

SECOND CLAIM FOR RELIEF
(Declaratory Relief)

24. There is a dispute between the parties as to whether Plaintiff or ASHI is the largest association of home inspectors in North America.

25. The dispute can be resolved by a decree of this Court. See, C.R.C.P. 57 and Section 13-51-101 et. seq., C.R.S.

26. A resolution of the dispute will benefit Colorado consumers.

27. Defendant's actions, as described here, have deceived the public, caused and will continue to cause, severe and irreparable harm to Plaintiff and Plaintiff's members. Because of Defendant's deceptive trade practices, Plaintiff is entitled to a declaratory of Defendant's deceptive trade practices.

28. Equity and the principles of justice require a declaratory judgment that Defendant has engaged in deceptive trade practices.

WHEREFORE, Plaintiff prays for a declaratory judgment that Defendant has engaged in deceptive trade practices with intent to injure competitors and destroy or reduce competition by claiming ASHI is the largest association of home inspectors in North America, for a declaration that INTERNACHI is the largest association of home inspectors in North America, for costs and attorney's fees as allowed by law, and for such other relief as the Court deems just.

THIRD CLAIM FOR RELIEF
(Injunction)

31. Upon information and belief, Plaintiff alleges that Defendant has engaged in deceptive trade practices with the intent of creating a false impression of the actual facts in the mind of Plaintiff and consumers.

32. As a result of Defendant's unlawful actions, Plaintiff has incurred damages, and will continue to incur damages which are impossible to quantify, and will suffer irreparable injury that can only be prevented by injunctive relief. Moreover, Plaintiff's members and the public have also been harmed by Defendant's actions.

33. Defendant's actions, as described here, have caused and, unless enjoined, will continue to cause, severe and irreparable harm for which Plaintiff has no plain, speedy, and adequate remedy at law. As a result of Defendant's deceptive trade practices, Plaintiff is entitled to injunctive relief requiring Defendant to make true and correct statements regarding the size of ASHI.

34. Equity and the principles of justice require that Defendant be enjoined from engaging in the unlawful actions stated above and required to provide true and correct statements regarding the size of ASHI.

WHEREFORE, Plaintiff requests that this Court enjoin Defendant from claiming that ASHI is the largest association of home inspectors in North America, for costs and attorney's fees as allowed by law, and for such other relief as the Court deems just.

FOURTH CLAIM FOR RELIEF
(Unfair Competition)

35. Defendant's false claim that ASHI is the largest trade association of home inspectors in North America has injured Plaintiff.

36. Defendant has misappropriated Plaintiff's status as the largest trade association of home inspectors in North America.

37. Defendant's actions are likely to cause confusion to for consumers searching for home inspectors and for home inspectors considering whether to join an association.

WHEREFORE, Plaintiff prays for damages as may be proven at trial, for costs and attorney's fees to the extent allowed by law, and for such other relief as the Court deems just.

WAIVER OF JURY

Potvin waives trial by jury.

THE COHEN LAW GROUP
A Professional Corporation

*The signed original document is kept in the
Nederland office of The Cohen Law Group, A
Professional Corporation., as required by C.R.C.P.
121 §1-26(9)*

/s Mark Cohen

Mark Cohen - # 13178
ATTORNEYS FOR PLAINTIFF