



Misleading Claim of Credit for Projects Done While at a Previous Firm

Summary

The National Ethics Council (“Council” or “NEC”) ruled that three AIA Members violated Rule 4.201 and Rule 5.201 of the Institute’s 1997 Code of Ethics and Professional Conduct (“Code of Ethics”) by using photographs of their former employer’s projects in a print advertisement for the three Members’ new firm. The advertisement failed to credit the projects to the Members’ former employer, who was the architect of record for each project. The NEC imposed the penalty of censure on the three Members.

All initials, names, dates, places, and gender references in this decision have been changed.

References

1997 Code of Ethics and Professional Conduct, Canon IV, Obligations to the Profession

Rule 4.201 Members shall not make misleading, deceptive, or false statements or claims about their professional qualifications, experience, or performance and shall accurately state the scope and nature of their responsibilities in connection with work for which they are claiming credit.

Commentary: This Rule is meant to prevent Members from claiming or implying credit for work which they did not do, misleading others, and denying other participants in a project their proper share of credit.

1997 Code of Ethics and Professional Conduct, Canon V, Obligations to Colleagues

Rule 5.201 Members shall recognize and respect the professional contributions of their employees, employers, professional colleagues, and business associates.

Findings of Fact and Analysis

Each of the three Respondents (Architect A, Architect B, and Architect C) is an AIA Member and a principal in ABC Architects. The Respondents had each worked for XYZ Architects, the Complainant’s design firm, for a number of years. Architect A was employed by XYZ Architects from 1984 to 1998; Architect B from 1986 to 1997; and Architect C from 1989 to 2001. Each left the employ of XYZ Architects willingly and with permission to take certain photographs of projects on which they had performed work while under the employ of the Complainant. Following departure from the Complainant’s firm, the Respondents then formed a new firm, ABC Architects. The permission to take photographs upon departure came with the understanding and stipulation that proper credit be given to XYZ Architects.

ABC Architects subsequently placed an advertisement in a local business directory. The advertisement included four photographs of XYZ Architects projects. At least two of the XYZ Architects project photos were taken by the Respondents. The publication showed no credit for XYZ Architects, the architect of record on these projects. It should be noted that the only projects shown in the advertisement were XYZ Architects projects.



In their Response to the Complaint, the Respondents acknowledge that they failed to place appropriate attribution to XYZ Architects in their advertisement. They have stated that, although the policy of ABC Architects was to give appropriate credit, the rush to publication caused the omission.

The Respondents maintain that they did not violate the cited rules of the Code of Ethics, as their omission was unintentional. They also state that ABC Architects has taken appropriate steps to remedy the situation. Those steps include acknowledging the error; pledging to provide future attribution to XYZ Architects; agreeing not to use any photographs given to the Respondents by XYZ Architects; and, if asked by potential clients about the advertisement, to provide proper attribution to XYZ Architects to the potential client.

The Complainant has cited two rules of the Code of Ethics. Because of the straightforward nature of the Complaint and the Response, the parties agreed not to have a hearing in this case.

Based upon a review of the evidence in the record submitted with the Complaint and Response, together with the statements made by the parties during the pre-hearing conference call, the Council has determined that the Respondents violated the Code of Ethics. Although the Respondents have denied a violation of the Code, they themselves have admitted failure to provide appropriate credit.

Rule 4.201

Rule 4.201 states:

Members shall not make misleading, deceptive, or false statements or claims about their professional qualifications, experience, or performance and shall accurately state the scope and nature of their responsibilities in connection with work for which they are claiming credit.

The evidence demonstrates the Respondents made visually misleading claims regarding the firm that produced the work on the subject projects. The Respondents exhibited only the projects done while at XYZ Architects, and yet there was not a clear effort to insure editorial accuracy. The Respondents recognized that each of the projects were XYZ Architects projects. Publication of project photos is the method by which our profession exhibits its work; it is our identity, individually and collectively. Without distinct proper credit, the public has the right to assume the firm whose advertisement displays the photos is the firm responsible for the design of the project.

Rule 5.201

Rule 5.201 provides:

Members shall recognize and respect the professional contributions of their employees, employers, professional colleagues, and business associates.

Each of the Respondents worked for XYZ Architects for more than 10 years. It is reasonable to expect they were well trained and given substantial opportunities over that period of time. It is a natural phenomenon of our profession that as young people mature they will develop skills to allow them to separate from the employ of the firm and begin doing small projects in their own firm. Nevertheless, there is still a need to recognize the contribution of the employing firm and the multitude of individuals responsible for the completed project. The building process is team-oriented, and no individual is capable of solo performance in the completion of a design project.

Ensuring accurate attribution of credit is essential to the way all architects market their services. Beyond the issue of respect for fellow employees and employers, there is a substantial investment and therefore economic impact on the firm that is producing the work. Without appropriate credit, the actual expertise is not



recognized and therefore securing future projects of similar nature may be compromised.

Conclusion

Under the NEC's Rules of Procedure, the Complainant has the burden of proving the facts upon which a violation may be found. In this case the basic facts are undisputed. Indeed, the Respondents themselves have acknowledged their failure to give credit to the Complainant. Thus, they clearly violated both Rule 4.201 and Rule 5.201.

Penalty

These situations are a serious breach to a firm's business development and cannot be allowed under any circumstances. Our profession's integrity demands this basic component of the Code of Ethics. The importance of restoring the true authorship and expertise of the Complainant is critical. It is therefore the decision of the Council that a penalty of censure be imposed on the Respondents. This penalty is consistent with past decisions where the NEC has found a violation of Rules 4.201 and 5.201 and imposed censure as the penalty. (*See NEC Decisions 90-12, 92-7, and 96-07.*)

Members of the National Ethics Council

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The Hearing Officer, Duane A. Kell, FAIA, did not participate in the decision of this case, as provided in the Rules of Procedure.

November 3, 2005