



Inaccurate Statement of Scope and Nature of Responsibilities in Connection with Work; Failure To Give Appropriate Credit

Summary

The National Ethics Council (“Council” or “NEC”) ruled that an AIA Member violated Rule 4.201 and Rule 5.301 of the Institute’s 2004 Code of Ethics and Professional Conduct (“Code of Ethics”) by displaying an award containing an erroneous attribution of credit and by taking no action to correct the error in the award even after being requested to do so by the architect who was entitled to the credit. The NEC imposed the penalty of censure on the Member.

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

References

2004 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.

2004 Code of Ethics and Professional Conduct, Canon V, Obligations to Colleagues

Rule 5.301 Members shall recognize and respect the professional contributions of their employees, employers, professional colleagues, and business associates.

Findings of Fact

The Parties

The Complainant is an architect licensed to practice in the State. He was a stockholder in an architectural firm (“Firm”) and served on a building project (“Project”) as project manager/designer while employed at the Firm. He subsequently left the employ of the Firm and is currently employed by another architectural firm.

The Respondent is also an architect licensed to practice in the State. He is a stockholder in the Firm and served on the Project in the role of construction administrator. He continues, today, in his role at the Firm as an employee and stockholder.

The Project and the Honor Award

The Project included a specialty flooring pattern, designed by the Complainant, that replicated the logo of the Project’s owner. The specialty flooring subcontractor (“Subcontractor”) submitted the Project to a national specialty flooring association (“Association”) for its awards program that recognizes notable use of materials. The Association awarded the Project an Honor Award.



In the submittal material and subsequent award, the Respondent is identified as the “designer/artist.” The Complainant is not mentioned in either the submittal material or the award.

The Complainant learned of the award while reading *Architectural Record* after he had left the Firm. An advertising insert in that month’s issue of the magazine displayed award recipients in the Association’s program. Included in that announcement was the Project with the Respondent identified as the designer/artist. The Complainant’s name did not appear in the announcement and no recognition was given to his contribution.

Upon seeing the advertising insert in *Architectural Record*, the Complainant noted his work on the Project had been recognized with an Honor Award by the Association but he had not been credited for the role he played. He was shocked to see the Respondent named as the designer/artist since he had not performed in that role.

The Complainant promptly called the Respondent about the improper credit and asked that the Respondent take steps necessary to correct the misstated credit in the award publication. The Respondent refused to make any inquiries about corrections to the Association award or the *Architectural Record* announcement. He testified that he believed any such efforts would be futile. The Respondent stated that he neither completed the submittal forms nor provided information for that purpose to the submitting Subcontractor. The Respondent also testified that he thought “it was very comical” that the Subcontractor had “screwed it up” after working “so extensively” with the Complainant. The Respondent never took any steps to correct the Association award.

Earlier that same year, the Firm had received an Association award plaque for the Project, and the plaque was mounted on a wall in the Firm’s office. The Respondent was aware that the plaque misrepresented him as the designer.

Almost two months after the Complainant first contacted the Respondent about the matter—and almost a month after the Respondent received this ethics complaint—another employee of the Firm returned the plaque to the Subcontractor for correction. It was that other employee, not the Respondent, who finally made the Firm’s request to the Subcontractor to correct the award. The Complainant also made a request to the Subcontractor for an Association award plaque for the Project that credited him as the designer, and the Subcontractor ultimately provided a corrected plaque to the Complainant.

Conclusion

The Respondent’s alleged violations as stated in the complaint, the pre-hearing conference call, and during the hearing are presented separately below.

Rule 4.201

Rule 4.201 provides:

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 Commentary to this rule states:

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.

The Complainant alleges that the Respondent violated Rule 4.201 by deceptive and misleading statements, listing himself as the designer/artist of work that was actually designed by the Complainant. There is no dispute that the Complainant was, in fact, the designer/artist and that



the Respondent's role in the Project was that of construction administrator. The Complainant alleges the credit published in the award is misleading and deceptive and that identifying the Respondent as the designer/artist denied another participant, the Complainant, his proper share of credit.

It is clear from the record in this case that the Respondent did not provide the incorrect information for the award submittal forms. The submitting Subcontractor completed the forms, which identified the Respondent as the designer/artist, and forwarded them to the Association Honor Awards program. By itself, the award's incorrect designation of the Respondent as the designer/artist does not constitute a violation of Rule 4.201.

This does not, however, dispose of the Complainant's allegation that the Respondent misstated his involvement and contributions on the Project and denied proper credit to the Complainant. The testimony is clear that the Respondent allowed a plaque signifying the Association award and identifying himself as the designer/artist to be displayed in the Firm's offices and to remain on display at least 50 days after he was notified by the Complainant that the information published was inaccurate and hearing Complainant's request that the Respondent take necessary steps to correct the wording in the award and the publication.

While the error in crediting the Respondent for work that was not his may have begun as a simple clerical mistake by others, the Respondent's attitude that he could not or would not do anything to rectify the erroneous credit is troublesome in this case. It is an even more troubling fact that another Firm employee was the one who finally returned the plaque and requested that it be corrected to credit the Complainant. Sadly, the Respondent did not initiate either of these actions, further evidence of his disregard for the referenced rule. While the Respondent testified he believed nothing could be done, the facts simply do not substantiate his

defense, and his disinterest in the Complainant's request is further evidence of the Respondent's disregard for the referenced rule.

The National Ethics Council concludes that the Respondent violated Rule 4.201 by displaying the erroneous attribution of credit in his Firm's offices.

Rule 5.301

Rule 5.301 provides:

Members shall *recognize and respect* the professional contributions of their employees, employers, *professional colleagues, and business associates*. [Emphasis added.]

Evidence presented at the hearing establishes that the Subcontractor prepared the award submittal forms when it did not receive a response to its request for information from the Firm. After the Firm received the Association award plaque for the Project, the plaque was mounted on a wall in the Firm's office. The Respondent was aware that the plaque misrepresented him as the designer but allowed the plaque to remain on display.

The Complainant contacted the Respondent stating his shock at seeing the Respondent credited in *Architectural Record* for a design that the Complainant had prepared. Even after that request, there is no evidence showing the Respondent attempted to have the plaque removed; instead the plaque remained on display at least 50 days after the Complainant notified the Respondent of the erroneous credit. The Respondent also refused to take any other action to attempt to correct the award's designation of the designer.

In this case, the Respondent failed in his duty to recognize and respect the professional contributions of his professional colleague and business associate by allowing the award plaque to be displayed at the Firm's office for an extended



period of time and by failing to do anything to correct the error in the award even after being requested to do so by the Complainant.

The National Ethics Council concludes that the Respondent failed to recognize and respect the Complainant's professional contributions in violation of Rule 5.301 by displaying the erroneous attribution of credit in his firm's offices and by taking no action to correct the erroneous attribution of credit in the award even when requested by the Complainant to do so.

Penalty

Having found violations of Rule 4.201 and Rule 5.301 of the Code of Ethics and Professional Conduct by the Respondent, the National Ethics Council must determine an appropriate penalty.

The following factors should be considered in the assessment of this penalty:

- The information submitted to the Association was not prepared by the Respondent but was prepared by the Subcontractor. Even though evidence shows that the Respondent's Firm was asked for information to include in the submittal form, there is nothing in the record showing that anyone at the Firm provided information, and there is no testimony establishing an intentional effort by the Respondent to misstate his role or take credit for work performed by the Complainant at the time the submittal was made to the Association. It is clear, however, the Respondent's cavalier attitude in response to the Complainant's request and the fact that plaque remained on display at least 50 days after the Complainant's call to him is an egregious example of failing to recognize and respect the professional contributions of professional colleagues or business associates.
- The plaque crediting the Respondent arrived in the Firm's offices and after several days

was unpacked and displayed on an office wall; the plaque remained there some 50 days even after the Complainant contacted the Respondent notifying of the error in crediting and asking him to see that the error was rectified. The record shows that the Respondent made no efforts to rectify the incorrect information.

- The Respondent states in the record that he never took credit for being the designer/artist and that there were times he pointed out to employees that the work was that of the Complainant. Further, the Respondent attempts to excuse the display of the plaque by stating that it was in a back portion of the office and was unlikely to be seen by clients and other visitors to the office. Because the plaque remained on display at least 50 days after the Complainant's call requesting correction of the credits cited is a flagrant example of failing to recognize and respect the professional contributions of professional colleagues and business associates.
- Another Firm employee took steps to discover how the Respondent's name was noted as the designer/artist and within a month returned the plaque to the Subcontractor for corrections and requesting that two errors be corrected. He specifically asked "if the Association could re-issue the Award and publish the corrections."
- The Complainant testified that a new plaque, properly crediting him for his efforts as designer/artist, was delivered by the Subcontractor. The Complainant did not specify the date the new plaque was delivered to him.
- The penalty in past cases involving the violation of the referenced Rules has ranged from admonition to termination of membership.
- Although the award information incorrectly crediting the Respondent likely originated with an innocent clerical error, the damage



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was exacerbated by the Respondent's cavalier attitude when the Complainant called him and his unconscionable attitude regarding the ongoing display of the plaque in the Firm's offices long after he had been notified by the Complainant.

- Although it is clear that the Respondent did not provide misinformation to the Association, his attitude and lack of effort to pursue corrections and his disregard for ongoing display of the plaque in the Firm's office is troublesome. The Respondent has demonstrated disregard for the referenced Rules and he has failed to recognize and respect the professional contributions of the Complainant.

After careful consideration of the case and violations, the National Ethics Council imposes the penalty of censure on the Respondent.

Members of the National Ethics Council

Phillip T. Markwood, FAIA, Chair
Janet Donelson, FAIA
A.J. Gersich, AIA
Melinda Pearson, AIA
Michael L. Prifti, FAIA
Kathryn T. Prigmore, FAIA

The Hearing Officer, Bill D. Smith, FAIA, did not participate in the decision of this case, as provided in the Rules of Procedure.

July 20, 2007