



Failure To Recognize Professional Contributions of Colleague

Summary

The National Ethics Council (“Council” or “NEC”) ruled that an AIA Member violated Rule 5.301 of the Institute’s 2004 Code of Ethics and Professional Conduct (“Code of Ethics”) by failing to recognize and respect the professional contributions of another architect in connection with a magazine article about a building renovation. The NEC found no violation of Rule 4.103 or Rule 4.201. The NEC imposed the penalty of admonition on the Member. Upon appeal by the Respondent, the Institute’s Executive Committee dismissed the complaint.

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 4.103 Members speaking in their professional capacity shall not knowingly make false statements of material fact.

Commentary: This rule applies to statements in all professional contexts, including applications for licensure and AIA membership.

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 a licensed architect. He grew up in a large residence in a suburb of a large city. He was the architect of the renovation that was done on the house from 1989 to 1999 (hereinafter referred to as the “Miller House”). In 2001, the house was sold by the Complainant’s father, the owner of the house.

The Respondent is a licensed architect providing architectural services through her own firm. The purchasers of the Miller House, Harold and Martha Johnson, hired the Respondent as the architect for a renovation and addition that was ultimately completed in 2003 (hereinafter referred to as the “Johnson House”).

The Miller House Renovation (1989-99) and the Transfer of Drawings

Renovation drawings were completed by the Complainant on the Miller House in 1989, 1993,



and 1999. The renovations were extensive and included (among other things) changes to the room layout, massing, and site plan.

At the time the house was sold to the Johnsons, the Complainant provided the Respondent with drawings under a cover letter dated May 21, 2001, which was described in the complaint but not submitted as evidence in this case. The complaint alleges the letter stated the drawings were being provided to the Respondent

for reference relating to your renovation. The design and the drawings are my property. The drawings may not be distributed to anyone or reproduced. I am giving you these drawings as a professional courtesy. I expect that you will return that courtesy by listing my name in any publication that shows my work.

On July 8, 2001, the Respondent returned the drawings to the Complainant with a letter stating that “you have given us permission to make one copy of your plans.”

The Johnson House Renovation (2001-03)

The Respondent’s firm completed renovation drawings for the Johnson House in 2001. This renovation was extensive and included (among other things): new roofing, siding, trim, doors, and railings; interior layout modifications; reconstruction of two fireplaces; new interior framing and finishes; new additions; and new plumbing, heating, and lighting.

The Respondent stated in her Response that

about 80 percent of the house was gutted back to the studs and approximately 2,000 to 3,000 square feet were added. The style of the house was also changed from a combination of shingle and colonial to a Queen Anne shingle style house. The interior of the house was changed to a more elaborate blend of arts and crafts and art nouveau. In sum,

virtually all of the architectural elements of the house, with the exception of the central staircase and the columns in the living room, have been replaced, eliminated, or modified.

The Article

The Spring 2006 issue of Metropolitan Residence magazine featured the Johnson House on the cover and in an article by Melissa Pruitt. The article itself covers eleven pages.

The complaint states that the “Complainant designed a significant part of the House that is credited to Respondent.”

The article highlights, among other things, a “dramatic entry with a sweeping staircase” and describes the master bath as “the showstopper.” One page of the article shows the entry stair, as designed by the Complainant and not altered by the Respondent in the subsequent renovation.

The determination of who did what design in the rest of the house is more difficult and not as clear as with the front staircase. The Complainant stated:

that’s my little half bath with the vaulted ceiling. The master bedroom, you know, the space is my design. The master bath that he envisioned as a tent, that’s my tent.

Whatever of the Complainant’s master bath design remains after the Respondent’s renovation, the room was gutted and reconstructed.

The Respondent claims in her Response that she did not author the article and was not given the opportunity to review the article prior to its publication. She claims that she had no control over the design elements that were the focus of the article. The Respondent also stated: “It is ludicrous for Complainant to expect Respondent to have anticipated what the author would write in the article in order to ‘credit’ Complainant.”



At the hearing, the Respondent also stated that “the article was about the renovation and the addition, not the original house.”

While the Respondent contends that the magazine’s “readers were interested in what the new team did to freshen up or spruce or renovate or add on to this existing house,” the article itself references the existing house and condition of the house a number of times, not in a particularly sensitive manner. The article states that the

old house was a hodgepodge of styles. And therein was the challenge. The solution? For starters, a total gutting.

In the next paragraph, the article states:

A visitor need only step into the lofty entry to get a sense of the achievement. A custom chandelier pays homage to a stunning, sinuous staircase.

The staircase is the design of the Complainant and was not changed by the Respondent.

The Complainant’s Demands

After the article was published, the Complainant delivered a demand letter, through counsel, with six demands. The Respondent, through counsel, delivered a response offering to ask the magazine to include a note in a future issue to give credit to the Complainant for the design of the staircase and living room columns. The Complainant, again through counsel, delivered a response renewing his demands.

Subsequently, counsel for the parties exchanged additional correspondence. No meeting was held between the parties until the hearing before the NEC hearing officer.

The Respondent’s Web Site

Among the Complainant’s demands are allegations regarding pictures published on the Respondent’s Web site. The Respondent contends

that the pictures on her Web site concern her renovation only. The Complainant did not provide any evidence to support his claims regarding the Respondent’s Web site. As a result, the National Ethics Council makes no findings that would support those claims.

Conclusions

Burden of Proof

According to Section 5.13 of the Council’s Rules of Procedure, the Complainant has the burden of proving the facts upon which a violation may be found. In the event the Complainant’s evidence regarding a rule does not establish a violation, the Complaint is dismissed with respect to that rule. (*See NEC Rules of Procedure, Section 5.13.*)

Rule 4.103

Rule 4.103 provides:

Members speaking in their professional capacity shall not knowingly make false statements of material fact.

The Commentary to this rule states: “This rule applies to statements in all professional contexts, including applications for licensure and AIA membership.”

The Complaint claims that the Respondent violated Rule 4.103 “by allowing a magazine article to be published which contained material misstatements.”

The Respondent did not have control over the contents of the article, however, and did not review a pre-publication version, nor did the Respondent provide photographs for the article.

The National Ethics Council concludes that the Complainant did not meet his burden to prove that the Respondent violated Rule 4.103.



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 did not provide evidence to show that the Respondent made misleading, deceptive, or false statements or claims. In addition, the Complainant did not provide evidence to show that the Respondent actively claimed or implied credit for work that the Complainant did.

The National Ethics Council concludes that the Complainant did not meet his burden prove that the Respondent violated Rule 4.201.

Rule 5.301

Rule 5.301 provides:

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

The Complaint claims that the Respondent violated Rule 5.301 “by allowing a magazine article to be published which showed Complainant’s work, but which failed to credit Complainant in any way.”

The Respondent asserts that “the readers were interested in what the new team did to freshen

up or spruce or renovate or add on to this existing house.”

In discussing the renovation, the article included descriptions of the previous design and condition of the house, such as a “hodgepodge of renovations restored to its original grace.” The article also stated:

‘Reworking the home’s design was like surgery,’ the architect says. A dramatic entry with a sweeping staircase greets visitors and sets the interior tone.

Prior to the Respondent’s work on the house, the Complainant specifically asked the Respondent to credit him “by listing my name in any publication that shows my work.” The Respondent has not denied that the Complainant made that request. At the hearing, the Respondent also acknowledged to the Complainant that the staircase “clearly is a centerpiece of the article, and you should have appropriately received credit for it.”

While the Respondent did not have control over the contents of the article, she was interviewed by the author for the content. She apparently chose to remain silent on the work of the Complainant during the interview and did not contact the author or magazine after being notified by the Complainant.

The National Ethics Council has previously explained that a member has an obligation to rectify an erroneous attribution of credit when requested to do so in similar circumstances. (*See NEC Decision 2005-11.*) The Respondent did not follow through on her professional courtesy to recognize and respect the professional contributions of her colleague.

The National Ethics Council concludes that the Complainant did prove that the Respondent violated Rule 5.301 by failing to recognize the professional contributions of the Complainant.



Penalty

Having found a violation of Rule 5.301 of the Code of Ethics by the Respondent, the National Ethics Council imposes the penalty of admonition.

[The NEC's decision was appealed to the Institute's Executive Committee, as permitted by Chapter 7 of the Rules of Procedure. Upon appeal, the Executive Committee dismissed the complaint.]

Members of the National Ethics Council

Bill D. Smith, FAIA, Chair
Victoria Beach, AIA
Janet Donelson, FAIA
A.J. Gersich, AIA
Michael L. Prifti, FAIA
Kathryn T. Prigmore, FAIA

The Hearing Officer, Melinda Pearson, FAIA, did not participate in the decision of this case, as provided in the Rules of Procedure.

October 4, 2009