



Failure to Accurately Credit Work Performed for Previous Employer

Summary

The National Ethics Council finds two members in violation of the Code of Ethics and Professional Conduct because, as principals of a new firm, they failed to give appropriate credit to previous employers in listings of project experience in requests for proposals.

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

References

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

R. 4.107 Members shall accurately represent their qualifications and 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 credit for work that they did not do, misleading others, and denying other participants in a project their proper share of credit.

R. 4.201 Members shall not make misleading, deceptive, or false statements or claims about their professional qualifications, experience, or performance.

Facts

National Ethics Council

The principals of a two-person firm submitted qualifications for two projects being proposed for construction in their city. Attached to both proposals were lists of projects in which the proposals stated the members were intimately involved, “either under the name of [their current firm] or as members of the firms in which they were previously employed.” Of the many projects on the lists, over two thirds were projects that had been done before the members formed their own firm, but were not separately identified to distinguish them from projects done by the members’ own firm.

The previous professional experience of one member was primarily as an unlicensed intern working under the supervision of architects. The other member had been employed by two previous firms as an architect under the supervision of the architect principals of those firms.

A previous employer obtained a copy of the project list and objected to the listing of projects for which the prior firm had been architect of record. The dispute was referred to the State Licensing Board, which issued no formal opinion but suggested through its executive director an alternative method of presenting the project experience. The members revised the project list in response to this suggestion.

Discussion

The members defend their actions by stating that they did not claim involvement as principals in all the projects on the list, and the names of their previous employers are listed in the personal resume section of the proposals. Moreover, they state, no prospective client was misled by the



project list because the members carefully explained their role in verbal interviews.

Our past Decisions are consistent in the application of the relevant Rules in cases like this. In Case 89-8, the Council found a violation where a brochure stated that certain of the projects pictured had been done while the member was employed in other firms, but did not name the firms. The Council did not find this to be a sufficient or accurate disclosure of the scope and nature of the member's responsibility for the projects. Case 94-2 is similar to the current situation in that it concerned a project list of experience of the member while employed at another firm. The Decision reiterates the principle that members of the AIA have an "affirmative obligation" to name the firm that was architect of record for a project if it is different from the member's current firm. In that case as well, the fact that the member's employment history was stated elsewhere in the proposal was held not to be adequate disclosure because the reader of a professional proposal should not have to hunt through disparate sections of a document to figure out what firm was responsible for a particular project.

Following the same analysis here, we conclude that the members' project lists are inaccurate and misleading in violation of Rules 4.107 and 4.201. While a reader of the lists is told at the outset that not all the projects on the list are the work of the submitting firm, there is no attempt to identify which projects are the responsibility of former employers, let alone to identify the firm of record for each project. The listing of previous employers elsewhere in the proposal doesn't accomplish this result. The reader is left with the overall impression that the members had primary responsibility for all of the listed projects, which is not true.

The members also made no attempt, anywhere in the proposal, to explain the sometimes limited scope and nature of their responsibilities in connection with any of the projects. The

Council considered it significant in Decision 94-2 that the member did not disclose on which projects he worked before he received his license. A prospective client would want to know how much of a member's claimed experience represented work as an architect and how much as an unlicensed intern. In this case, several of the listed projects were intern experience, but there is no hint of that in the proposal. In any event, it is plain from the text of Rule 4.107 that members are required to state the capacity in which they functioned on projects claimed as professional experience.

We are also unwilling to accept a "no harm, no foul" defense that any deficiencies in the qualifications proposals were rectified in oral interviews. First, written proposals are used as the basis to select which firms to interview, and misstated credentials have the potential to cause another qualified firm to be denied an interview it otherwise would have gotten. Second, there is no certainty in any selection process that all decision makers will be present at the interview to hear the explanation of credentials. Third, there is no evidence that the misleading and inaccurate proposals disseminated by these members were ever withdrawn or formally corrected. Indeed, during this case the members refused to rescind or disown the project lists, which they defended as not misleading. As a result, nothing has happened on this record to dispel the false impression of the firm's credentials that the project list created.

Conclusion

The penalty in past cases of violation of these Rules has ranged from admonition to a one-year suspension of membership. In this case, there is no claim of oversight or inadvertence--there was a conscious decision to present the project list in the manner in which it was presented. There was no intent to deceive, but the members evidence a lack of sensitivity to the potential for their proposals to create false impressions.



THE AMERICAN INSTITUTE OF ARCHITECTS

Code of Ethics and Professional Conduct DECISION 96-07

Admonition would be an insufficient penalty in the face of this conduct.

On the other hand, Respondents took steps to revise their proposal for future use when the problems with the project list were brought to their attention. The fact that no client has complained does not excuse the violation of the Code of Ethics, but it is relevant in determining a sanction. We are not inclined to impose suspension of membership, and, accordingly, censure is the penalty for these violations.

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

January 31, 1997