



## *Admitted Violation of Licensing Law*

### Summary

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The Council finds a violation of the Code of Ethics and Professional Conduct by a member who consented to discipline imposed by her state licensing board. The penalty for the ethics violation is admonition.

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

### References\*

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*Code of Ethics and Professional Conduct, Canon III, Obligations to the Client.*

R. 3.101 In performing professional services, members shall take into account applicable laws and regulations. Members may rely on the advice of other qualified persons as to the intent and meaning of such regulations.

### Facts

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A Member contracted with an owner to design a personal residence. Relations between the owner and the Member became difficult during the design phase, and the Member terminated the contract after delivering construction drawings to the contractor chosen by the owner.

The owner filed a complaint against the Member with the licensing board alleging professional malpractice. After an investigation, the licensing board charged the Member with preparing incomplete and deficient plans and drawings that were submitted for permit in violation of the board's rules.

The Member believed the charge was untrue, but in order to avoid the expense and distraction of a hearing at a time when her firm was busy, the Member consented to a finding of violation. The Consent Order signed by the Member states that the plans and drawings were deficient in violation of state law and imposes a fine and a requirement that the Member attend courses in code compliance.

### Discussion

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Commissions that begin with the highest hopes and best feelings sometimes don't meet those expectations. In this case the falling out was over money--the architect's fixed fee didn't cover the time and effort she had to put in during the design phase, so she resigned before construction began. The owner completed the project, but at greater cost and difficulty than he anticipated.

The owner's displeasure at this turn of events resulted in a claim to the licensing board. The Member settled with the board in an effort to put the matter behind her. The Consent Order she signed imposed discipline on her for violating the board's rules, and she fulfilled the requirements of the Order.

In this ethics proceeding, however, she seeks to deny the allegations to which she admitted in the Consent Order. She states that she would not have admitted to a violation if she had known that an ethics complaint would later be filed. Because of the circumstances under which it was signed, the Consent Order should be disregarded, in her view.

While we understand that the Member faced a



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difficult choice when presented with a settlement offer from the licensing board, we do not find here anything that persuades us to doubt the validity of the Consent Order. The Member knew she had an opportunity to defend against the board's charges, yet voluntarily chose to admit to them to terminate the proceeding. She may now regret that decision, but that cannot affect what we do. There is no evidence that the Member was deceived or misunderstood the content of the Consent Order. Accordingly, we see no basis to disregard it. The Order states facts that establish a violation of the Code of Ethics.

## **Conclusion**

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We hold the Member to her statements in the Consent Order and find her in violation of the Code. The penalty for this violation is admonition.

Norma Merrick Sklarek, FAIA, Chair  
Melvin Brecher, FAIA  
Kenneth DeMay, FAIA  
Carolyn D. Geise, FAIA  
Phillip H. Gerou, FAIA  
Robert P. Madison, FAIA

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

**May 30, 1997**

\*The Code of Ethics and Professional Conduct was amended effective March 22, 1997. This case arose before the amendment date and is therefore decided under the Code prior to amendment.