



# Failure To File Complaint within One Year of the Alleged Violations

## Summary

---

The Chair of the National Ethics Council (“Council” or “NEC”) dismissed a Complaint that alleged that an AIA Member violated Rules 3.103, 3.201, and 3.301 of the Institute’s 2004 Code of Ethics and Professional Conduct in connection with professional services provided by the Member to the Complainant. The Chair dismissed the Complaint because it was not filed within one year of the alleged violations as required by the NEC’s Rules of Procedure.

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

## References

---

*2004 Code of Ethics and Professional Conduct, Canon III, Obligations to the Client*

Rule 3.103 Members shall not materially alter the scope or objectives of a project without the client’s consent.

Rule 3.201 A Member shall not render professional services if the Member’s professional judgment could be affected by responsibilities to another project or person, or by the Member’s own interests, unless all those who rely on the Member’s judgment consent after full disclosure.

*Commentary: This rule is intended to embrace the full range of situations that may present a Member with a conflict between his interests or responsibilities and the interests of others. Those who are entitled to disclosure may include a client,*

*owner, employer, contractor, or others who rely on or are affected by the Member’s professional decisions. A Member who cannot appropriately communicate about a conflict directly with an affected person must take steps to ensure that disclosure is made by other means.*

Rule 3.301 Members shall not intentionally or recklessly mislead existing or prospective clients about the results that can be achieved through the use of the Members’ services, nor shall the Members state that they can achieve results by means that violate applicable law or this Code.

*Commentary: This rule is meant to preclude dishonest, reckless, or illegal representations by a Member either in the course of soliciting a client or during performance.*

## Analysis

---

The Complaint alleges that the Complainant and the Respondent, an AIA Member, communicated in the spring of 2006 in connection with a proposed development project. The Complaint alleges that the Complainant did not consent to the Respondent’s letter dated April 28, 2006 in which the Respondent proposed to provide various professional services. The Complaint does not allege that the Respondent provided, or was obliged to provide, any services to the Complainant after May 2006.

The Complaint claims that the Respondent violated Rule 3.103, Rule 3.201, and Rule 3.301 of the AIA’s Code of Ethics and Professional



Conduct on various dates in March and April 2006. More than a year passed between any of these alleged violations and the filing of the Complaint in May 2008. The only information or documents contained in the Complaint that are subsequent to May 2006 have to do with resolution of a dispute over payment for the Respondent's services.

Section 3.1 of the NEC's Rules of Procedure states, in part:

A Complaint must be filed within one year of the alleged violation unless good cause for delay is shown.

Section 3.3 of the Rules of Procedure states, in part:

The Chair of the NEC reviews all Complaints preliminarily to determine if . . . there is good cause for any delay in filing a Complaint more than one year after the alleged violation occurred . . . .

Section 3.4 of the Rules of Procedure states, in part:

The Chair may dismiss a Complaint that fails to meet any of the requirements of these Rules.

The Complaint was not filed within one year of the violations alleged. The Complaint does not include any information that would establish a good cause for delay in filing. (*See NEC Rules of Procedure, Section 3.1.*)

Accordingly, the Chair has dismissed the Complaint because it was not filed within one year of the alleged violations as required by Section 3.1 of the NEC's Rules of Procedure.

Members of the National Ethics Council

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

August 5, 2008