



Conflict Of Interest – Endorsements

Questions

Q1: *It is unethical for the architect to endorse the product line?*

Reference

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

Rule 3.201 Members shall not accept compensation for their services from more than one party on a project unless the circumstances are fully disclosed and agreed to by all interested parties.

Rule 3.202 If members have any business association, direct or indirect financial interest, or other interest which could be substantial enough to influence their judgment in connection with their performance of professional services, the members shall fully disclose to their clients or employers the nature of the business association, financial interest, or other interest, and if the clients or employers object to such association, financial interest or other interest, the members will either terminate such association or interest or give up the commission or employment.

Commentary: *These rules are intended to embrace the full range of situations which may present a member with a conflict between his interests and those of his client or employer. In some situations, a conflict is easily discerned, as when the architect owns property adjacent to property upon which he has been asked to design a structure and is faced with design options which would affect the value of his property. Other instances are not so clear, and that is more frequently the case as new systems and procedures for the construction process, such as design-build, come into the market. In every case, the architect must take adequate steps to ensure that the client is aware of any substantial interest which might run counter to the interest of the client.*

The Code of Ethics and Professional Conduct applies to the professional activities of all Members, Associate Members, and Members Emeritus of the AIA.



Facts

An architect is asked by a product manufacturer to endorse a line of products for the building industry. There is no compensation to the architect for his endorsement, which the manufacturer uses publicly in advertisements and marketing materials.

Discussion

There is no Rule under the Code that prohibits product endorsements as such. A member who chooses to issue an endorsement should consider whether that fact should be disclosed to the client on any project on which the member specifies the endorsed product. Disclosure certainly would be prudent and consistent with the guidance expressed in Ethical Standard 3.2.

In appropriate cases, the product may be so unimportant in the context of the total project that the architect's endorsement could not reasonably be considered an interest that is significant enough to influence his professional judgment, and accordingly, disclosure would not be required under Rule 3.202. Usually, however, disclosure is highly advisable, and it would be unethical not to do so if the circumstances are such that the member's judgment might be affected.

The situation would be different if the member were receiving compensation for the endorsement. Then it would be unethical under Rule 3.201 not to disclose the payments from a material supplier. Members should also note that in a majority of states, licensing board regulations prohibit accepting compensation from material or equipment suppliers in return for specifying or endorsing their products. Usually this rule cannot be waived by agreement with the owner.

Conclusion

A1: No. It is not unethical to make uncompensated endorsement of products. Disclosure to a client may be required under appropriate circumstances, and disclosure is mandatory if there is compensation for the endorsement. Paid endorsements by architects are prohibited under the laws of many states.

Note: This opinion is based on data submitted to the National Judicial Council and does not necessarily include all the facts that would be pertinent in another specific case. This opinion is for information purposes only and should not be construed as expressing any opinion on the ethics of specific individuals.

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