



Misleading Advertising

Question

Q1: *Is it unethical for Firm A to use the photograph of a project completed by Firm B in a trade show booth bearing the name and logo of Firm A?*

References¹

1997 Code of Ethics and Professional Conduct, Canon IV, Obligations to the Profession

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.

Rules of Application, Enforcement, and Amendment, Article I, Application

The Code of Ethics and Professional Conduct applies to the professional activities of all members of the AIA.

Facts

1. While employed by Firm B, Architect C worked as lead designer on a youth recreation center.

2. Architect C left the employ of Firm B to work for Firm A. Architect C obtained from Firm B copies of photographs of certain projects with which he was involved while working for Firm B. He also obtained directly from the photographer copies of photographs of the youth recreation center project.

3. Four months after Architect C left Firm B, Firm A sent Architect C to exhibit at a national recreation and sports conference in a booth bearing the name and logo of Firm A.

4. The booth of Firm A prominently featured the photograph of the youth recreation center designed by Architect C while employed by Firm B. The photograph contained a three-line caption: the name of Architect C, followed by the word “Designer”; the name of Firm B as “Architect of Record”; and the name of the photographer as “Photo supplied by.”

5. Firm A and its then current employees did not have any involvement with the youth recreation center at the time of its design.

6. Firm A is headed by a Member in good standing of the Institute. Firm B is headed by a Member in good standing of the Institute. Architect C is a Member in good standing of the Institute.

Discussion

The Preamble to the Code states, in red lettering, that “**Rules of Conduct (Rule) are mandatory; violation of a Rule is grounds for disciplinary action by the Institute.**”

The Council historically has displayed a very low tolerance level for any subterfuge or excuse regarding credit improperly claimed. Every AIA



Member has an unassignable responsibility to make certain that credit is properly attributed.

The nature of a trade booth is that it casts forth to the passing crowd a high impact visual impression of the capability and experience of the design professional creating the marketing statement. At issue here, therefore, is a matter of the relative scale of the information contained in the booth of Firm A. While Firm A followed the letter of the Code by giving correct credit to Firm B as the Architect of Record, it is undisputed that Firm A violated the spirit of Rule 4.201 by placing a burden on the beholder to enter the booth and peruse the photograph closely in order to discover that the “aisle” claim of Firm A to experience and expertise in the field of youth recreation facilities to some significant degree hinged upon a single project not executed by its firm. In a commercial context where perception holds at least equal weight as fact, the Council takes a dim view of this type of avoidance of the duty that every Member voluntarily accepts under Rule 4.201.

Conclusion

QI: Yes. Firm A did not act ethically by encouraging the impression that it had direct responsibility for the design and construction of the youth recreation center project designed by Architect C while in the employ of Firm B. Furthermore, credit, to be credit, must be perceptible and easily read from the same viewing point as the “aisle” image demonstrating the expertise being claimed.

Note: This opinion is based on data submitted to the National Ethics 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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¹ All citations to the Code in this Advisory Opinion refer to the 1997 Code of Ethics and Professional Conduct.