



Failure to File a Formal Ethical Complaint Against an Associate Member Who Had Lied About His Status as a Graduate of an Architecture School; Making Misleading, Deceptive, or False Statements about the Professional Qualifications of Employees; Failing to Make Reasonable Efforts to Ensure That Employees Conform their Conduct to the Code.

Summary

The Council found an employer had violated R. 4.104 by failing to file an ethics Complaint against an Associate Member employee who had affirmatively misrepresented his status as having received a degree in architecture, and who continued to make that misrepresentation and permit the employer to represent him as a graduated architecture student even after the initial misrepresentation was discovered.

The Council found an employer had violated R. 4.201 by representing employees in the firm brochure as registered architects, when the employer knew or should have known that they were not.

The Council found an employer had violated R. 4.202 by failing to take any action to educate himself or his employees about the requirements of the AIA Code of Ethics after discovering that an employee had lied about his status as a graduated architecture student, and learning that unqualified employees were represented in the firm brochure as registered architects.

The penalty imposed by the Council for each violation is Admonition. Admonition is a private reprimand, a record of which is placed in the architect's AIA membership file.

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

Reference

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

R. 4.104 Members having substantial information which leads to a reasonable belief that another Member has committed a violation of the Code which raises a serious question as to that Member's honesty, trustworthiness, or fitness as a Member, shall report such information to the body charged with enforcing the Code.

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

R. 4.202 Members shall make reasonable efforts to ensure that those over whom they have supervisory authority conform their conduct to the Code.

Commentary: *What constitutes "reasonable efforts" under this rule*



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is a common sense matter. As it makes sense to ensure that those over whom the architect exercises supervision be made generally aware of the Code, it can also make sense to bring a particular provision to the attention of a particular employee when a situation is present which might give rise to violation.

Facts

Employee A was hired by the architecture firm in 1988. On his resume he stated that he had received a five-year professional Bachelor of Architecture degree. He repeated that statement in the first paragraph of the cover letter attached to his resume. However, in the second paragraph of the cover letter, he stated that he had "completed all the requirements needed to receive my degree except for the completion of my thesis presentation...". [Emphasis added] He then went on to state that he anticipated receipt of his Bachelor of Architecture degree in a few months.

He became an Associate Member of the AIA. A resume listing him as an employee with a degree in architecture was included in the firm's brochure. Many months later, new employees questioned the employer about Employee A's lack of a degree. The employer, claiming to be completely surprised, questioned Employee A. He admitted that he had lied about his degree status, expressed remorse and embarrassment, and promised to complete his thesis. The employer took him at his word, continued to use the same resume in the firm brochure, and made no effort to follow up on Employee A's promise. The employer had one other conversation with Employee A about his unfinished degree, again after complaints from other employees. Still, it was nearly two years later before he completed his thesis. By that time, his resume had been removed from the firm brochure, not because of his failure to complete his thesis, but because of a management decision to only include employees

who had the title, Project Architect. At no time

did the employer take or threaten to take any disciplinary action against Employee A. In fact, he was promoted during the period when his degree was still not completed.

Employee B was hired prior to becoming a registered architect. However, his resume was included in the firm brochure listing him as a Project Architect and stating that he was enrolled in the "NCARB-IDP program." The employer, who by his own admission did all the marketing for the firm, claimed to have never noticed the incongruity of having a registered architect enrolled in an Intern Development Program.

Employee C was hired as a Senior Project Architect. While he had taken the registration exam, he was represented in the firm brochure as an architect prior to learning that he had passed the registration examination. He expressed concern about this to other employees, but apparently said nothing to the employer.

Employee D, who had received both her Bachelor's and Master's degrees in architecture, but was not yet registered, was represented as an architect to a client during a site visit and in subsequent correspondence.

Discussion

The Council found the attitude of the employer toward the requirements of the AIA Code of Ethics and Professional Conduct and the actions of some of his employees to be cavalier at best. Employee A's intentional misrepresentation of his degree status and his failure to expedite remedial action after being confronted by the employer clearly raise questions about his honesty, trustworthiness, and fitness as an Associate Member of the AIA. The failure of the employer to take any disciplinary action against Employee A, but to instead promote him, is unbelievable. The Code applies to all classes of AIA Members. The employer had a duty to file a Complaint with the Council against Employee A when the em-



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ployer learned of his intentional misrepresen

tation. The employer's argument that he did not want to damage the career of a young person because of a mistake about which he expressed great remorse rings hollow. Employee A's actions were not mistakes. It is difficult to imagine the situation where a student could be mistaken about whether or not he had finished his thesis. In fact, Employee A's actions seem to have been calculated to put the untruthful and misleading information in the places where a potential employer would look first—his resume and the first paragraph of his cover letter. The truth was buried in the second paragraph of the cover letter.

But even granting the employer the benefit of the doubt about his compassion for Employee A, he most surely had a duty to file a Complaint with the Council after being notified a second time that Employee A still had not completed his degree. Accordingly, the Council finds that the employer violated R. 4.104 of the Code.

Employees B, C, & D, themselves, made no misrepresentations about their training and qualifications to potential clients. By calling them architects, when, in fact, they had either not taken or passed the registration examination, the employer mislead potential clients about their training and abilities. Since the employer was the chief marketer for the firm's services, he had or should have had an accurate grasp of the qualifications of the firm's employees. R. 4.201 applies to representations made about one's firm and its employees as well as representations made by individual architects. For misrepresenting Employee A's degree status and for misrepresenting Employees B, C, & D as registered architects, the Council finds that the employer violated R. 4.201.

The employer was the chief executive officer of his firm. It was his duty to make a reasonable effort to ensure that those persons over whom he had supervisory authority conformed their conduct to the Code. This he did not do. While the Code is not explicit about how this is to be done, some situations are patently obvious. Apparently, it did not occur to the employer or

any other senior manager to even suggest, let alone require, that Employee A simply read the Code after discovering he had lied about his degree status. No one even suggested to him that his conduct was unethical.

Another way for an employer to engender compliance with the Code is by example. The employer here failed in that respect as well. He failed to make any, let alone reasonable, efforts to ensure that Employee A conformed his conduct to the requirements of the Code. He failed to make himself familiar enough with the requirements of the Code to recognize that he was in violation of its Rules in misrepresenting unregistered employees as architects. For these reasons, the Council finds that he violated R. 4.202.

To the credit of Employees B, C, & D, all expressed dismay and discomfort at being referred to as architects when they were not registered. It was yet another architectural intern who filed this Complaint. It is a source of both disappointment and hope that some of the architectural interns in the firm seem to have a more finely developed sense of ethics than their registered architect employer.

Conclusion

For violating R. 4.101, R. 4.201, and R. 4.202, the Council imposes the penalty of Admonition for each violation. A letter of Admonition from the Secretary of the Institute, along with a report on this case, will be placed in the employer's AIA membership file.

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As provided in the Rules of Procedure of the National Judicial Council, the Hearing Officer, L. Kirk Miller, AIA, did not participate in the decision of this case.

October 30, 1992