



## Knowingly Violating the Law in the Conduct of Member's Professional Practice By Making Illegal Campaign Contributions

### Summary

---

Based on his guilty plea to two misdemeanor indictments, the Council found that Architect A had violated the law in the conduct of his professional practice by making illegal corporate contributions to a political campaign.

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

### Reference

---

*Code of Ethics and Professional Conduct, Canon II, Obligations to the Public*

R. 2.101 Members shall not, in the conduct of their professional practice, knowingly violate the law.

*Commentary: The violation of any law, local, state or federal, occurring in the conduct of a member's professional practice, is made the basis for discipline by this rule. Allegations of violations of these rules must be based on an independent finding of a violation of the law by a court of competent jurisdiction or an administrative or regulatory body.*

### Facts

---

Architect A pled guilty to two misdemeanor

indictments alleging that he "willfully" made illegal corporate campaign contributions by laundering corporate funds through an employee (Architect B). Upon receiving a bonus, the employee immediately contributed the funds to a political campaign. The employee testified before the grand jury and is listed in documents filed with the court as an employee of the architect's incorporated firm. The local component of the AIA, which filed the Complaint with the Council, presented certified copies of relevant court documents. The architect's attorney stipulated at the hearing that all the information in the court documents was true.

### Discussion

---

Architect A admitted that he had pled guilty to the two misdemeanor indictments alleging that he violated campaign finance laws by funneling corporate funds to a political campaign through Architect B, who is described in court documents as an employee. In his own defense, Architect A asserted that Architect B was not an employee, but an associated architect with whom Architect A had worked in the past, and with whom he still associated on various projects. Architect A claimed that Architect B had requested the funds distributed to him as an advance against fees he would earn from a project in which he was associated with Architect A. Architect A stated that Architect B advised him that he wanted the money to make a campaign contribution. Architect B did not appear at the hearing to offer any testimony. Architect A stated that he had pled guilty to two misdemeanor indictments as part of plea bargain which resulted in two other indictments being dropped. A great deal of local



# THE AMERICAN INSTITUTE OF ARCHITECTS

## *Code of Ethics and Professional Conduct DECISION 93-7*

publicity had been generated as a result of his indictment, and he wanted to put the case behind him. His attorney argued that his client had pled guilty to "willfully" violating the law, but that he had not "knowingly" violated the law. The attorney urged the Council to apply the different definitions of "willfully" and "knowingly" as defined in state criminal statutes.

No architect alleged to have violated the AIA Code of Ethics and Professional Conduct is required to present a defense. However, the Council will decide all cases that proceed to hearing based on the evidence presented. The Council does not have the power to subpoena witnesses. It must rely on the evidence presented by the parties in deciding a case. The Council felt that Architect B was a critical witness in this case based on the assertions made by Architect A about the business relationship between the two and Architect B's alleged request for the funds distributed to him. Architect B did not appear at the hearing, thereby avoiding cross-examination about his alleged actions. The Council could only conclude that Architect A did not present Architect B, who's office was located only minutes away and with whom Architect A was still associated, because Architect B would not have supported Architect A's testimony.

To apply the definition of "knowingly" contained in the state criminal statutes is both too narrow and too stringent a requirement. The standard of proof required for a case brought before the Council is a preponderance of the evidence--that is, it is more likely than not that the violation alleged did occur. For decisions issued by the Council to have meaning for all AIA members, the interpretation of words like "knowingly" must be defined broadly enough to be applicable to all members. To conclude that Architect A "willfully" violated the law, but did not "knowingly" violate the law, is too fine a hair for the Council to split. Architect A broke the law. In so doing, he violated R. 2.101 of the AIA Code of Ethics and Professional Conduct.

Determining the appropriate penalty in this case

required long and serious discussion. Architect A, by all accounts, has a long history of contribution to the profession and to the AIA. His attorney argued that such a history of positive contributions should be considered in determining the appropriate penalty. The Council agrees. But, there are two ways to look at that argument. First, because a member has been a leader in the profession, a lighter penalty should be imposed in recognition of that leadership. Second, precisely because a member has been a leader in the profession, he should have known that his actions were illegal and unethical.

The Council currently has four levels of penalty that may be imposed:

- Admonition, which is a private reprimand;
- Censure, which is a public reprimand;
- Suspension of AIA membership, or
- Termination of AIA membership.

Censure, and suspension and termination of membership are penalties that are made public to the membership through publication of the member's name and a synopsis of the case in **MEMO**.

Censure has been imposed in two cases--90-12 and 92-07. Those cases involved misrepresentation of the size and qualifications of a member's firm, and failing to give credit to a joint venture partner on a project. The Council felt that this case was far more serious. The Council also felt that some consideration should be given to the member's long-time efforts on behalf of the profession and the AIA. That consideration led to the conclusion that termination of membership was too harsh a penalty. The Council concluded that Architect A's membership should be suspended for a period of one year.

When a member is suspended from the AIA for a violation of the AIA Code of Ethics and



# THE AMERICAN INSTITUTE OF ARCHITECTS

*Code of Ethics and  
Professional Conduct  
DECISION 93-7*

Professional Conduct, his name and a summary of the case is published in **MEMO**, the monthly newsletter distributed to all AIA members. A letter from the Secretary of the AIA is placed in his membership file. That letter advises the member of the dates of membership suspension and that he is not permitted to exercise the privileges of AIA membership. During suspension the architect may not:

- The use of AIA or FAIA after his name on stationery, business cards, telephone listings, etc.;
- Wearing an AIA or Fellowship pin or medal;
- Attendance at various local and national AIA functions as a member;
- Membership on any committees at the local, state, or national level;
- Serving as a chapter delegate;
- Participating in AIA group insurance, retirement, and other benefit programs.

A copy of the Secretary's letter is also sent to the Chancellor of the College of Fellows (if the member is a Fellow), to the Executive Director of the AIA Trust, and to the Executive Directors or the Presidents of appropriate chapter and state-wide AIA components. The relevant AIA components are strongly encouraged to publicize the suspension in their newsletters.

## **Conclusion**

---

For knowingly violating the law by making illegal corporate campaign contributions, we find that Architect A violated R. 2.101 of the AIA Code of Ethics and Professional Conduct, and impose that penalty of one year's suspension of AIA membership.

L. Kirk Miller, FAIA, Chair

Glenn Allen Buff, FAIA  
James A. Clutts, FAIA  
Kenneth DeMay, FAIA  
Robert V. M. Harrison, FAIA  
Norma Merrick Sklarek, FAIA

*The hearing officer, Melvin Brecher, FAIA, did not participate in the decision of this case, as provided in the Rules of Procedures.*

**April 15, 1994**