



Professional Credit Inaccurately Stated by Others

Summary

The Council finds no violation of the Code of Ethics and Professional Conduct in this case despite an admittedly inaccurate statement of professional credit with respect to work performed by a former design principal of another firm. The evidence establishes that the Member charged in this case had no responsibility for the false statements of others and was appropriately diligent in his efforts to correct the errors after the fact.

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

References*

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

R. 4.107 Members shall accurately represent their qualifications and 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 credit for work that they did not do, misleading others, and denying other participants in a project their proper share of credit.

Facts

Two firms were participants in rival developer/architect teams competing for a large

scale municipal project. Ironically, both firms featured in their portfolios the work of the same architect, a well regarded designer in the relevant field who had worked successively for each of the firms. This dispute arose when the public presentation of credentials by the second firm failed to credit the first firm as the architect of record for certain of the Design architect's projects.

The public presentation was not made by the Member alleged to have violated the Code of Ethics, who is a principal of the second firm. The presentation on behalf of the developer/architect team was made by a consultant to the developer. The consultant prepared her presentation based on the voluminous written proposal that had been submitted for the project. The architecture portion of the written proposal, which the Member did prepare, correctly identified certain of the Design architect's projects as individual design work and not the work of the Member's firm. The consultant who made the public presentation at a hearing, however, did not include this information in her remarks. Hence, the false impression was conveyed that all the Design architect's work was done by the Member's firm.

The Member was present at the hearing and immediately noted the consultant's failure to correctly credit the Design architect's projects. The member took steps promptly to bring the omission to the attention of the consultant and to ensure that written follow up communications to the prospective client were accurate.

Discussion



This case is relatively unusual in that everyone involved agrees that a false and misleading presentation of professional qualifications was made. The falsity appears not to have been intentional, however. In any event the Member cannot be held responsible for the content of a statement by a consultant who was hired by the developer, not the architect, and was not subject to the architect's supervision or control. The consultant is not an architect and not familiar with or bound by the AIA Code of Ethics.

We are satisfied from the record in this case that the Member had no opportunity before the public presentation to review the consultant's remarks or materials. Having provided the correct information in the written proposal, the Member had every reason to believe that accurate information would be communicated by the consultant. When this did not happen, the member took prompt and diligent action to correct the situation by ensuring an accurate written follow-up to the verbal presentation. This is what we would expect of a Member who is aware of his ethical obligations and sincerely seeks to meet them in circumstances where the Member does not control the person making the representations of professional credit.

One aspect of this case is a departure from our previous decisions on the correct manner of crediting the work of other firms. We have said before that a Member has an affirmative duty to identify by name the firm that employed the architect to whom credit is given if that firm is different from the architect's current firm. In this case, the Member's firm identified the previous work of the Design architect simply as "the individual design work of [Design architect]" without naming the firm for which he worked at the time. We do not find a violation of the Code, however, because the first and second firms that employed the Design architect had an agreement to credit the Design architect's work in this manner. We do not subscribe to the principle that members are free to change the

Code of Ethics by agreement among themselves.

In this case, however, since the second firm gave no false representation that it had done the work, and the first firm surrendered its right to be identified as the firm of record, the integrity interest of prospective clients has been protected.

Conclusion

Notwithstanding the admitted presentation of inaccurate professional credentials in this case, we do not find any violation of the Code of Ethics because the misrepresentation was not within the control or responsibility of any Member of the AIA.

Norma Merrick Sklarek, FAIA, Chair
Samuel A. Anderson, III, FAIA
Melvin Brecher, FAIA
Kenneth DeMay, FAIA
Carolyn D. Geise, FAIA
Robert P. Madison, FAIA

The Hearing Officer, Phillip H. Gerou, FAIA, did not participate in the decision of this case, as provided in the Rules of Procedure.

May 30, 1997

*The Code of Ethics and Professional Conduct was amended effective March 22, 1997. This case arose before the amendment date and is therefore decided under the Code prior to amendment.