



## *Pleading Guilty to an Aggravated Misdemeanor*

### Summary

The National Ethics Council (“Council” or “NEC”) censured Architect A for violating Rule 2.101 of the Institute’s 1997 Code of Ethics and Professional Conduct (“Code”). Architect A pled guilty to tampering with invoices and other records, an aggravated misdemeanor under his state’s law. The criminal conviction formed the basis for the NEC decision finding him in violation of Rule 2.101.

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

### References

*1997 Code of Ethics and Professional Conduct, Canon II, Obligations to the Public*

Rule 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. This includes the federal Copyright Act, which prohibits copying architectural works without the permission of the copyright owner. Allegations of violations of this rule 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.*

### Findings of Fact and Analysis

Architect A has been the owner of a design-build firm that serves the residential market. In 1998, a two-year dispute with a client resulted in the filing of criminal charges against him. The client had engaged the services of his firm, and, according to Architect A, failed to make payments when due. A civil suit in the matter was decided in Architect A’s favor and resulted in Architect A being awarded damages.

Evidence disclosed during the civil litigation, however, became the basis for the criminal charges. Differences between estimates provided by subcontractors on the project and final invoices were alleged to show overbilling by Architect A and unlawful tampering with documents. Architect A stated that he had made no changes to the invoices and that the differences were entirely attributable to the changes in the scope of work performed. Nevertheless, he waived his right to trial and pled guilty to the charge of tampering with records, an aggravated misdemeanor under the law of the state of his residence. Architect A was sentenced to one year’s probation and ordered to pay \$1,500 to a local charity for the homeless.

The criminal conviction formed the basis for the Council’s decision finding that Architect A violated Rule 2.101 of the Code. Architect A denied any wrongdoing. He argued that the Council should not find him in violation of the Code, maintaining that he had waived his right to a trial, pled guilty to criminal charges, and signed a stipulation of guilt only to make the criminal case “quietly go away.”

The Council recognized that, under the circumstances, Architect A had made a difficult decision in pleading guilty to the criminal charges. The Council noted, however, that it could not



disregard the formal judgment of a court of law in this case, which in and of itself established a violation of Rule 2.101 of the Code.

The Council dismissed the Complaint's allegation that Architect A had violated Rule 2.104, which provides that "Members shall not engage in conduct involving fraud or wanton disregard of the rights of others."

### **Penalty**

---

Because of the criminal conviction that formed the basis of Architect A's violation of the Code, the Council imposed the penalty of censure. It found sufficient mitigating factors to prevent the imposition of a more severe penalty.

Members of the National Ethics Council

Ronald P. Bertone, FAIA  
Brian P. Dougherty, FAIA  
D. Susan J. O'Brien, AIA  
Phillip H. Gerou, FAIA  
Carolyn D. Geise, FAIA, Chair  
Peter Piven, FAIA

*The Hearing Officer did not participate in the decision of this case, as provided in the Rules of Procedure.*

**April 2000**