

# The Pro-Active Approach

A Design Professional's Resource



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The Heuer Law Group

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## Giving Proper Credit for Past Work?

**Question:** "How can I represent my or my employee's past work while not 'stealing' from a previous employer?"

**Answer:** You can represent your or your employees' past work in promotional materials or on your Web site as long as you are careful to credit the old firm and as long as you state the scope of your responsibility (or that of your employee) on each project listed.

Allegedly misleading or deceptive claims of credit by an architecture firm are issues frequently heard before the AIA's National Ethics Council (the "Council"). Rule 4.201 of the AIA Code of Ethics and Professional Conduct (the "Code") states that:

"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."

An example of this rule in context is where an architect at Smith Architects, Inc., quits and joins Johnson Design Group. Johnson Design Group wants to mail an announcement to potential clients about their new hire, citing as part of her portfolio several high-profile projects that the architect worked on while at Smith Architects, Inc. The problem arises if Johnson Design Group fails to credit Smith Architects, Inc. in their announcement, or if Johnson Design Group fails to state clearly their new hire's scope of responsibility on those cited projects.

By not citing Smith Architects, Inc. and leaving the impression that the architect designed the projects after moving to Johnson Design Group, or, alternatively, by leaving the impression that their new hire played a more significant role in the project than was the case, Johnson Design Group's announcement creates what the AIA Ethics Counsel has referred to as "confusion in the marketplace," and is "misleading and deceptive and...denie[s] other participants in the projects their proper share of credit." The principals of Johnson Design Group are also individually in violation of

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## SCHEDULE OF EVENTS

### April 1-2, 2009

Residential Design '09  
Issues Contracting with  
Consultants;  
Did You Get the Owner's  
Manual for Your  
Practice?  
Boston, MA

### April 30 - May 2, 2009

AIA National Convention  
Firm Management 201:  
Running a Small Design  
Practice  
San Francisco, CA

### August 24, 2009

AIA Santa Clara Valley  
How to Avoid Getting Sued  
Santa Clara, CA

### August 25, 2009

AIA Ventura County  
Did You Get the Owner's  
Manual for Your Practice?  
Oxnard, CA

**Please keep us in mind  
when you need help  
with:**

- Drafting/reviewing contracts
- Professional liability issues
- Project delivery methods
- Consultant contracts
- AIA document questions
- Corporate matters

Rule 4.201 because they were aware of the content in the announcement and approved it prior to publication. The lesson to take away from this is that your firm may cite, in promotional materials or on its Web site, projects on which your employee has worked prior to joining your firm. However, the promotional materials must credit the firm responsible for the overall design on all projects listed so as not to mislead anyone into thinking that the project was the work of your firm. The materials also must state your or your employee's specific role on each project – again, to avoid misleading anyone about the scope of his or her responsibility on the project.

This is not to say that your promotional materials must amount to an advertisement for that old firm. You can aggregate disclosures where you or your employee worked on several projects at the same firm. For example, if you worked on ten projects at your old firm which you want to note in your current firm's marketing materials, then go ahead and list all ten projects, specifying your role on each. To do so, you first need to list what your title was on each project. Then signal a footnote with an asterisk, and state the name of your old firm in the footnote, rather than repeating it ten times in the body of the text. The footnote should state the name of your old firm and state also that the firm either was the architect of record or the interior design firm (or whatever role is applicable): such as "ABC Partners, Architects," or "CDE Interior Design, Inc., Interior Designer."

Here is an example of what I am referring to with regard to specifying your or your employee's role on each project and crediting your old firm (or firms):

SALLY Q. ARCHITECT, AIA LEED AP

#### Relevant Experience

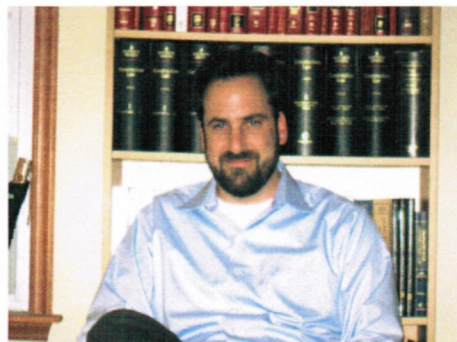
Waldorff-Astoria Hotel Redesign\*, 1989, Intern;  
Ritz-Carlton Hotel Redesign\*, 1993, Staff Designer;  
George V Hotel Redesign\*\*, 1995, Chief Designer;  
Four Seasons Hotel Redesign\*\*, 2001, Project Manager;  
W Hotel\*\*, 2004, Project Manager

[bottom of page – not too conspicuous, but not buried in a corner in minute type, either]

\*ABC Partners, Architects

\*\*CDE Interior Design Firm, Interior Designer

Taking this extra step is relatively easy, and will avoid embarrassment and possible censure by the AIA.



**Michael Lichtenstein, Associate**

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