Materially Altering the Scope of Objectives Without the Client's Consent; Professional Services Affected by Another Project; Misleading the Results that can be Achieved Through the Use of a Member's Services

Summary

The National Ethics Council ("Council" or "NEC") found no violation of Rules 3.103, 3.201, or 3.301 of the Institute's 2012 Code of Ethics and Professional Conduct ("Code of Ethics") in connection with a Member materially altering the scope of objectives without the client's consent; professional services affected by another project; and misleading the results that can be achieved through the use of a member's services.

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

References

2012 Code of Ethics and Professional Conduct,

Canon III, Obligations to the Client

Rule 3.103 Members shall not materially alter the scope or objectives of a project without the client's consent.

Rule 3.201 A Member shall not render professional services if the Member's professional judgment could be affected by responsibilities to another project or person, or by the Member's own interests, unless all those who rely on the Member's judgment consent after full disclosure.

Commentary: This rule is intended to embrace the full range of situations that may present a Member with a conflict between his interests or responsibilities and the interest of others. Those who are entitled to disclosure may include a client, owner, employer, contractor, or others who rely on or are affected by the Member's professional decisions. A Member who cannot appropriately communicate about a conflict directly with an affected person must take steps to ensure that disclosure is made by other means.

Rule 3.301 Members shall not intentionally or recklessly mislead existing or prospective clients about the results that can be achieved through the use of the Members' services, nor shall the Members state that they can achieve results by means that violate applicable law or this Code.

Commentary: This rule is meant to preclude dishonest, reckless, or illegal representations by a Member either in the course of soliciting a client or during performance.

Findings of Fact

The Parties

Complainants are a married couple and reside in Green City, State A, where they own a home.

Respondent is an architect with offices in Blue City, State A. They are a principal of Architecture Firm.

Statement of Facts

Summary

Complainants sought Respondent's architectural services for a residential renovation in 2014. During the course of their work together, the parties decided to focus on the master bathroom renovation first. That design work occurred in 2014–2015. In March 2015, after Complainants

received initial construction bids, they notified Respondent that they wished to terminate their agreement.

Chronology

In September 2014, the Parties had preliminary discussions regarding Complainants' desire to engage Respondent's architectural services to renovate Complainants' mid-century home. Respondent delivered a proposal, dated September 15, 2014 ("September 15, 2014, Proposal"), which outlined the following work to be performed:

- Master Bathroom renovation and alterations
- Kitchen and laundry renovation and alterations
- Window replacement
- Door replacement
- New transom windows
- New structural members as required for new windows
- Roof insulation and air barrier
- Wall insulation and air barrier
- New interior finishes
- Repaint existing siding
- New radiant floor heating system and new floor finishes
- Maintain existing HVAC system with new terminations
- Utilize new and existing electrical lighting
- Utilize existing electrical service panels—existing and new power circuiting
- Utilize existing plumbing system—modify as required for renovation work
- Photovoltaic array or solar hot water heating system not in contract

The September 15, 2014, Proposal contained a "Preliminary Schedule" and states, "Please note this is a preliminary schedule and will be revised at your request." The schedule is stated as follows:

- Kick-off meeting = September 5, 2014
- Submit Proposal = September 8, 2014
- Schematic design options for Owner review = October 6, 2014
- Design development drawings for Owner review = October 20, 2014
- Contract documents for Owner review = October 28, 2014
- Submit application package for Zoning permit = November 10, 2014
- Submit application package for UCC plan review = November 24, 2014
- Revise documents per UCC comment (if required) = upon comment receipt
- Documents available for bidding = November 24, 2014
- Commence work = Late November 2014
- Anticipated Substantial Completion Phase 1 = Late January 2015
- Anticipated Substantial Completion Phase 2 = Spring 2015
- Anticipated Substantial Completion Phase 3 = Summer 2015
- Anticipated Substantial Completion Phase 4 = Fall 2015
- Anticipated Final Completion = Spring 2016

On September 20, 2014, Respondent visited Complainants' home to take measurements and observe existing conditions. Following that visit, Respondent transmitted "existing conditions drawings" for Complainants' review and comment. Shortly thereafter, Complainants sent Respondent an email requesting revisions to the existing conditions drawings.

On September 30, 2014, Complainants sent the Respondent an email requesting additions to the master bathroom scope, which included a urinal, separate soaking tub, "big" walk-in shower, and a transom or skylight. That evening, Respondent sent Complainants an email reply in which he provided cost estimates for construction as follows:

- Master Bathroom: $15K
- Kitchen: $25K
- Windows: $30K
- Laundry: $5K
- Painting Siding: $15K
- New Floor Finish: $5K
- Roof Insulation: $10K

- Skylight: To be determined.
- *Mechanical: Not in contract*
- Subtotal: $105K
- *Contingency: $15K
- Total $120K preliminary estimate of probable construction cost.

In a discussion in October 2014 regarding the preliminary estimate, Mr. Complainant inquired as to perceived discrepancies between Respondent's preliminary estimate in his proposal and where work stood at that juncture. Respondent replied:

> Mr. Complainant
>
> In response to you [sic] question about my preliminary estimate, the proposal and any discrepancy, please note the following:
>
> - I developed a rough scope-of-work estimate and cost based upon my initial walk-thru and discussion
> - I developed the lump-sum fee proposal as a percentage of that first rough estimate
> - The lump sum fee will not increase if the value of the work increases
> - The lump sum fee will not increase if the scope of the work increases (within reason)
> - The final price of the work may be determined by bid or negotiated with your selected contractor(s)
>
> Please also note my definition of construction cost does include all necessary materials and work, but does not include other project costs like architect fee, building permit fee, inspection fee, etc. or the cost you may incur if, for example, you had to spend a couple nights at a hotel due to construction.

Shortly thereafter, Respondent transmitted schematic drawings to Complainants. Between October 11 and November 10, 2014, the Parties exchanged a number of emails regarding revisions to the master bathroom plans, which culminated in an in-person meeting on November 15 to discuss.

On November 29, 2014, Respondent transmitted revised schematic drawings to Complainants. Between December 13 and December 23, additional changes and revisions were made to the master bathroom schematic drawings, resulting in Complainants' approval on December 24. Later that month, Respondent provided plumbing and fixture options to Complainants for review and comment. On December 28, Complainant responded, indicating a desire to upgrade "higher end stuff" for the master bathroom.

On January 17, 2015, Respondent met with Complainants to present fixtures and finishes, as well as to explain the "value engineering process" and how less costly materials could be substituted if bids were too high. On January 20, Complainants sent additional revisions to the master bathroom design.

On February 3, 2015, Respondent sent Complainants revised documents for their review in advance of submission to the Plan Review to the Authority Having Jurisdiction ("AHJ"). On February 8, 2015, Complainants replied by email, stating a number of concerns and questions regarding logistics of submitting the documents, and expressing some disagreement as to who was contractually required to prepare and submit the submission. In reply, Respondent provided Complainants additional clarification, and offered to terminate their agreement if Complainants felt Respondent was not serving them well. Complainants responded that they would like to continue working with Respondent. The plans were submitted to the AHJ on February 11, 2015.

The Parties initially planned to meet in person late in February, and ultimately scheduled to meet March 6.

In early March 2015, Complainants requested that Respondent provide the plans Respondent prepared in electronic format. Respondent provided the plans on March 2.

Three days later, on March 5, 2015, Complainants notified Respondent of their intent to terminate their agreement with Respondent, conditioned on a partial refund of monies already paid to Respondent. On March 8, 2015, Complainants reiterated their intent to terminate the agreement and requested a larger refund.

On March 12, 2015, Respondent received a complaint from the Better Business Bureau that Complainants had filed. On May 15, 2015, Respondent received a complaint from the State A's Attorney General Bureau of Consumer Protection (and filed by Complainants).

Hearing Testimony

At the Hearing, Ms. Complainant said this about Complainants' claim under Rule 3.103:

> So the—the three, I guess, violations we'll call them, seems sort of an extreme word, but the first is a member shall not materially alter the scope, Rule 3.103.
>
> And this arose from the Respondent being hired to do a sort of large redesign for our house . . .
>
> . . . .
>
> And the total was supposed to be—to cost $120,000 to redo the entire thing. And the bathroom was supposed to be, I think, between [$]15[,000] and [$]20,000. And when we started getting bids in for the design for just the master bathroom, they were coming in around—between like [$]50[,000] and [$]60[,000] or $70,000.
>
> So this was way over our budget. So that was sort of our—you know, what we thought was sort of an alteration of scope.
>
> The Respondent claims that [they] offered to value engineer that down. In [this]—let's see. In the Respondent's reply, [they] refers to one of the emails that [is] included. Let me see if I can find it. [*Exh. B*, Exhibits] 70 and 71 are the two pieces of evidence where [they] say that [they] explained the value engineering process and discussed how less oscillating materials could be substituted and blah, blah, blah.
>
> And if you look at both of those documents, there's nothing about value engineering or about how we could get the price down.
>
> It also seems like that might be something that would be reasonable if it were, you know, from a $15,000 estimate or goal up to like [$]20,000. Maybe you can change some of the products and some slight design. But, you know, a 300 percent increase in the cost seems something that we wouldn't necessarily want to or could value engineer down.

With respect to Complainant's claim of a violation of Rule 3.201, Ms. Complainant further testified at the Hearing:

> The second one is the 3.201, a member shall not render professional services if the member's professional judgment could be affected by responsibilities—I'm sorry, too fast—to another project or person.
>
> And so this—this one arose because after the Respondent started working with us [then] told us [that they] took another job that was going to require most of [their] attention, and [they] would be able to still work on our project in the evenings and weekends, which—at which point we said, that's fine, as long as it gets done, you know, in a reasonable time. Which then it kind of became clear over time that that was maybe not going to be possible for the Respondent to do because the Respondent was not really able to respond to our questions and emails or provide, you know, the next document that was due to us in a timely manner.
>
> And the Respondent—so says that one of the Respondent's claims is that we requested breaking the work into phases increasing the duration of the schedule, which is in sort of a false context.

> So we—the email where we mentioned breaking the work into phases refers to the actual construction to the—what we would be spending $120,000 on. We still wanted all the architecture work done up front.
>
> As it took longer and longer and longer, and we really wanted to get started on the—at least some part of the work we said, okay, why don't you just do design documents on the master bathroom? So that was the breaking out.
>
> That wasn't intended to increase the duration of the schedule. It was meant to accommodate the Respondent's schedule.
>
> We—so the Respondent says we delayed critical decision making. There was some back and forth. I assume this is an iterative process. We received no indication from the Respondent that we were making too many changes or that it was—that that's not how it worked.
>
> This is the first time I've worked with an architect. My—I mean, my—I have lots of architects in my family, but this is the first time that I've personally done so. So maybe we were misinformed.
>
> So that refers to the Respondent's third point too about revising the design.
>
> The fourth response redirects an increase where the Respondent says the Complainant directed an increase in the scope of the project increasing construction costs. That's just false. I'm not sure where that comes from. And then that was written twice. Yeah, so those are both false.
>
> And then the last is the offer to—refusing an offer to value engineer, which we certainly did not do.

With respect to Complainant's claim of a violation of Rule 3.301, Ms. Complainant testified:

> And by the time we got these bids when we asked to cancel the contract because it didn't really seem reasonable to try to value engineer that down, at that point the Respondent just stopped responding to us, which brings us to the last complaint, which is the 3.301.
>
> And this—we weren't quite sure, you know, which specific violation to cite here, but this was essentially for stopping communicating with us while still under contract and kind of walking off the job.
>
> And so we didn't know which—you know, which rule to cite for that, but we assumed that was not something that, you know, was very professional at least.
>
> So that's why we're here. We are just trying to figure out, you know, what happened. And it's—you know, as we expressed in our email, you know, maybe we kept hoping that we were in the wrong, and that the Respondent could explain to us what—you know, why the—why he was behaving the way he was. But he never did, and so that's why we're here.

At the Hearing, Respondent declined to present his case other than to provide an opening statement and ask Ms. Complainant questions after her testimony, stating, "I have nothing further to add beyond my response to the complaint."

Conclusions

Burden of Proof

Under Section 5.13 of the NEC Rules of Procedure, the Complainant has the burden of proving the facts upon which a violation may be found. In the event the Complainant's evidence does not establish a violation, the Complaint is dismissed.

NEC authority strictly applying Rule 5.13 is well-established. The NEC does not act in a prosecutorial manner, will not make Complainants' cases for them, and has consistently declined to piece together an argument on a Complainant's behalf that is unsupported by evidence in the case record. (*See, e.g.*, NEC Decisions 91-8; 93-4; 94-5; 2002-09; 2010-09.)

Rule 3.103

Rule 3.103 states:

> Members shall not materially alter the scope or objectives of a project without the client's consent.

With respect to Rule 3.103, the Complainants cite to Exhibits A, B, C, F2, H–J, N–P, Q, and R in their Complaint as evidence of Respondent's violation of this Rule. Those exhibits are as follows:

A: 9/15/14 Proposal
B: 9/30/14 Respondent's email breaking out costs
C: 10/3/14 Respondent's email explaining how he arrived at the preliminary estimate
F2: 12/28/14 Complainant's email regarding Ms. Complainant's travel and outline of additional revisions to the master bathroom
H–J: 2/8/15 Email exchange between Complainants and Respondent regarding submission of plans to the AHJ.
N–P: Cost estimates and emails from [Tile and Hardwood Company, Construction Companies].
Q: 3/5/15 Complainants' email to Respondent indicating desire to terminate and request for refund.
R: 3/8/15 Complainants' email to Respondent reiterating desire to terminate and request for larger refund.

At the Hearing, Complainant offered little in the way of tying the above exhibits cited in the Complaint into a coherent argument that Respondent violated Rule 3.103. In fact, at the Hearing, Ms. Complainant did not cite any of the above Exhibits.

At the Hearing, Ms. Complainant focused on the assertion that the preliminary estimate for the master bathroom that Respondent provided was $15,000, but after the plans were finalized, estimates ranged from $50,000 to $70,000. While Respondent does not appear to dispute that bids were in those amounts, the record shows that Complainants did request revisions to the plan that may have caused the increase. On September 30, 2014, Complainants requested a number of changes to the master bathroom plans, including these:

- Double sink
- Urinal and toilet
- Separate soaking tub
- "Nice, big walk in shower"
- Open to a variety of materials (stone, tile, concrete, etc.)
- Add some natural light–transom window and/or skylight, and internal window view through bedroom to outside windows

On December 23, 2014, Complainants requested that Respondent incorporate an additional change to include an all glass back wall, stating, "It is worth the expense…" On December 28, Complainants emailed Respondent stating, "I think we'll go for the higher end stuff in the master bath…"

At the Hearing, Ms. Complainant did state that:

> The Respondent claims that they offered to value engineer that down. In this–let's see. In the Respondent's reply, refers to one of the–one of the emails that [was] included. Let me see if I can find it. [*Exh. B.*, Exhibits] 70 and 71 are the two pieces of evidence where the Respondent says that [they] explained the value engineering process and discussed how less oscillating materials could be substituted and blah, blah, blah.
>
> And if you look at both of those documents, there's nothing about value engineering or about how we could get the price down.

In this instance, Ms. Complainant is correct that at *Exh. B.*, Exhibits 70–71 in the Response, there are no specific references to value engineering. However, in the main body of the Response, Respondent refers to a meeting with Complainants on January 17, 2015, and states:

> I attend a meeting at the residence of the Complainant to present fixtures and finishes. I briefly explained the value engineering process. We also discussed how less costly materials

> could be substituted if bids came too high. I received a check for the completed schematic design phase.

In sum, Complainants received high supplier/builder estimates, and did not bring those concerns to Respondent to address. It appears from the record that the parties had a meeting scheduled for March 6, 2015, but that meeting never occurred because Complainants opted to cancel the meeting and initiate contract termination discussions.

In this case, the core issue is whether Respondent violated Rule 3.103 by materially altering the scope or objectives of the project without Complainants' consent. Clearly, some changes occurred between the Parties' initial discussions in September 2014—which resulted in the preliminary proposal of $15,000 for the master bathroom renovation—and the February/March 2015 supplier and builder estimates that resulted in the estimates between $48,000 and $72,000. The question here is whether those changes occurred without the Complainants' consent.

Complainants did not proffer evidence sufficient to show that Respondent acted without their consent within the meaning of Rule 3.103. What the record shows is that Complainants approved of drawings and plans throughout the process, and that Respondent communicated with them regarding fixtures, finishes, and materials. In fact, Complainants specifically told Respondent, "It is worth the expense…" to include an all glass back wall, and that "[w]e'll go for the higher end stuff in the master bath…"

Complainants' sole argument thus appears to be that, because the bids came in at $48,000–$70,000 and not at $15,000–$20,000, Respondent must have acted against their consent. Without more, Complainants' argument is unpersuasive.

Under Rule 5.13 of the Rules of Procedure, it is Complainants' burden of proof to show a violation occurred. Based on the Complaint, Ms. Complainant's testimony, and the other evidence of record, Complainants have failed to meet that burden.

Based on Complainants' failure to meet their burden of proof, the NEC concludes that there is no violation of Rule 3.103.

Rule 3.201

Rule 3.201 states:

> A Member shall not render professional services if the Member's professional judgment could be affected by responsibilities to another project or person, or by the Member's own interests, unless all those who rely on the Member's judgment consent after full disclosure.

The Commentary to Rule 3.201 states:

> *This rule is intended to embrace the full range of situations that may present a Member with a conflict between his interests or responsibilities and the interests of others. Those who are entitled to disclosure may include a client, owner, employer, contractor, or others who rely on or are affected by the Member's professional decisions. A Member who cannot appropriately communicate about a conflict directly with an affected person must take steps to ensure that disclosure is made by other means.*

With respect to Rule 3.201, the Complainants cite to Exhibits A, D, E, F, G, H–J, K, L, M, Q, and R in their Complaint as evidence of Respondent's violation of this Rule. Those Exhibits are as follows:

A: 9/15/14 Proposal
D: 10/26/14 Complainants' email regarding "falling behind schedule"
E: 11/4/14 Complainants' email regarding "not [having] received a reply to the past two emails"
F: 11/26/14 Complainants' email regarding drawings
G: 2/8/15 Complainants' email regarding "submitting plans and contract scope"

H-J: 2/8/15 Email exchange between Complainant and Respondent regarding submission of plans
K: 2/28/15 Complainants' email regarding potential meeting
L: 2/28/15 Email from Respondent offering to meet with Complainants and to discuss design documents, material samples, bathroom quotes
M: 2/28/15 Email from Complainants regarding design documents
Q: 3/5/15 Complainants' email to Respondent indicating desire to terminate and request for partial refund
R: 3/8/15 Complainants' email to Respondent reiterating desire to terminate and requesting a larger refund

At the Hearing, Ms. Complainant testified:

> And so this—this one arose because after the Respondent started working with us he told us he took another job that was going to require most of his attention, and he would be able to still work on our project in the evenings and weekends, which—at which point we said, that's fine, as long as it gets done, you know, in a reasonable time. Which then it kind of became clear over time that that was maybe not going to be possible for him to do because he was not really able to respond to our questions and emails or provide, you know, the next document that was due to us in a timely manner.

From the record, it is clear that Respondent's responsiveness to Complainants' emails was a source of dissatisfaction to Complainants. (*Exh. A.*, at Exhibits D, E, F, and K.) Respondent does not dispute that those communications occurred. However, the question here is not whether Respondent should have been more responsive; rather, the question is whether Respondent's professional judgment was "affected by responsibilities to another project or person" within the scope of Rule 3.201.

Rule 3.201 does not require AIA members to decline work if, in so doing, their responsiveness to another client may be affected in some way. Rather, it requires that they avoid situations in which their professional judgment could be affected by responsibilities to another project or person, or by the Members' own interests.

In this case, Complainants have argued only that Respondent had another project that would take up substantial time. However, they do not proffer evidence sufficient to prove that Respondent's professional judgment was somehow impaired because of his work on that or other projects. Moreover, the Respondent's taking on another project did not, without more, create an obvious conflict of interest that would bring this case within the scope of Rule 3.201, nor was there persuasive evidence of any other conflict of interest. With all this in mind, NEC finds that Complainants have failed to meet their burden of proving a violation of that rule.

Based on Complainants' failure to meet their burden of proof, the NEC concludes that there is no violation of Rule 3.201.

Rule 3.301

Rule 3.301 states:

> Members shall not intentionally or recklessly mislead existing or prospective clients about the results that can be achieved through the use of the Members' services, nor shall the Members state that they can achieve results by means that violate applicable law or this Code.

The Commentary to Rule 3.301 states:

> *This rule is meant to preclude dishonest, reckless, or illegal representations by a Member either in the course of soliciting a client or during performance.*

With respect to Rule 3.301, Complainants cite to Exhibits A, D, E, F, G H–J, K, L, M, Q, and R in their Complaint as evidence of Respondent's violation of this Rule. Those Exhibits are as follows:

A: 9/15/14 Proposal
D: 10/26/14 Complainants' email regarding "falling behind schedule"
E: 11/4/14 Complainants' email regarding "not [having] received a reply to the past two emails"
F: 11/26/14 Complainants' email regarding drawings
G: 2/8/15 Complainants' email regarding "submitting plans and contract scope"
H–J: 2/8/15 Email exchange between Complainants and Respondent, and Respondent's email regarding submission of plans
K: 2/28/15 Email from Complainants to Respondent regarding potential meeting
L: 2/28/15 Email from Respondent offering to meet with Complainants and to discuss design documents, material samples, bathroom quotes
M: 2/28/15 Email from Complainants regarding design documents
Q: 3/5/15 Complainants' email to Respondent indicating desire to terminate and request for partial refund
R: 3/8/15 Complainants' email to Respondent reiterating desire to terminate and requesting a larger refund

At the Hearing, Ms. Complainant stated with respect to Complainants' claim under Rule 3.301:

> And by the time we got these bids when we asked to cancel the contract because it didn't really seem reasonable to try to value engineer that down, at that point the Respondent just stopped responding to us, which brings us to the last complaint, which is the 3.301.
>
> And this—we weren't quite sure, you know, which specific violation to cite here, but this was essentially for stopping communicating with us while still under contract and kind of walking off the job.
>
> And so we didn't know which—you know, which rule to cite for that, but we assumed that was not something that, you know, was very professional at least.
>
> So that's why we're here. We are just trying to figure out, you know, what happened.

Complainants do not argue that Respondent violated Rule 3.301 by stating that the Respondent could achieve results by means that violate applicable law or the Code of Ethics. The remaining question, then, is whether Respondent violated the rule by "intentionally or recklessly mislead[ing]" them about the results that could be achieved through the use of his services. The Complaint itself says:

> We do not believe the Respondent acted recklessly as described in 3.301, but we do believe [the Respondent] intentionally misled us about the results that could be achieved through the use of [the Respondent's] services.

In Ms. Complainant's own summary of their argument as reflected in her testimony quoted above, "this was essentially for stopping communicating with us while still under contract and kind of walking off the job…" Expanding somewhat on Complainants' argument, it appears to say that Respondent intentionally misled them by stating the Respondent could design a master bathroom renovation for approximately $15,000–$20,000, but instead delivered a design for $50,000–$70,000. The evidence proffered by Complainants, however, does not persuade the NEC that Respondent intentionally misled them. All that is in the record is that there was a disparity between the cost of the design delivered and the preliminary estimate. While this is certainly problematic from Complainants' viewpoint, the disparity alone, without additional evidence that Respondent's conduct violated Rule 3.301 in terms of intentional misrepresentations, does not establish a violation of that rule.

Moreover, even if Respondent "just stopped responding to us", that does not mean that the Respondent intentionally misled them about the results that could be achieved by using the

Respondent's services. It signals nothing more in this case than a lack of communication which, in any event, seems particularly understandable after Complainants' filing of a complaint with the Better Business Bureau only days after the parties had been seeking a time to meet. Given Complainants' posture in filing such a complaint, it would be reasonable for Respondent to conclude that further communication was not in their own interest. More importantly for our inquiry here, which does not address Complainants' reasonableness, ceasing communication at such a juncture would not establish a violation of Rule 3.301.

To be clear, there are many things that arguably could have been handled differently to avoid the eventual conflict and termination of the relationship between the Parties, and certainly, this truism applies to all relationships that sour. What those 20/20 hindsight changes could have been is not within the AIA National Ethics Council's purview. The issue here is whether Complainants presented sufficient evidence that Rule 3.301 was violated. The NEC concludes they have not.

Based on Complainants' failure to meet their burden of proof, the NEC concludes that there is no violation of Rule 3.301.

Penalty

Complainants in this case have provided many emails and documents in the record, as well as testimony at the hearing. However, the sum of Complainants' evidence and argument does not establish that Respondent violated Rules 3.103, 3.201, or 3.301 of the Code of Ethics.

The record shows that there were early discussions of a home renovation; that the focus of the work in question was the master bathroom; and that there were communications between the parties about changes and revisions to the master bathroom plans.

The evidence presented by Complainants was insufficient to establish that Respondent acted unilaterally to materially change the scope of the project without Complainants' consent or knowledge in violation of Rule 3.103; that there was a conflict of interest which affected Respondent's professional judgment to Complainants' detriment in violation of Rule 3.201; or that Respondent intentionally misled Complainants about the results that could be achieved through his services in violation of Rule 3.301.

It is clear that initial bids to construct the master bathroom based on Respondent's design came in high. High initial construction bids are not uncommon, and discussions and revisions between architects and clients to modify designs to lower construction costs often occur. This disparity was not resolved because the parties effectively ended their working relationship shortly after Respondent received the initial bids.

The National Ethics Council having found no violation of Rules 3.103, 3.201 or 3.301 by Respondent, the Complaint is hereby dismissed.

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

March 29, 2018