

Watcha Gonna Do?

Landscape Architecture Ethics

The Situation

Hadagan, a small design firm, made landscape architect Un Faithful an associate. He was a bright, aggressive, creative, and enthusiastic professional who had social and political ties in nearby, under-served "Small City."

On Hadagan's behalf, and with his time and expenses paid, Un Faithful was encouraged to market Small City. The prospect was an important urban renewal project, which would be the catalyst for adjacent streetscape and renewal projects.

Un Faithful worked independently on office projects assigned to him, and began his work day as early as 5:00 A.M., which was several hours before the rest of the Hadagan staff arrived.

Office procedures were well established, and the personnel policy for those who quit or whose employment was terminated required instant debriefings, removal of personal items and person, and a severance check for two weeks pay.

Un Faithful resigned, and in the debriefing, he told Hadagan that the Small City project, which he had been marketing for approximately 18 months, "would not go forward for at least another year."

A Small City television station, in a report the following evening, ran a feature on Un Faithful, announcing that he had won the Small City project based on his rendered plan for the project he had described to Hadagan as more than a year away. Small City, believing that Un Faithful was the driving force behind the project, had awarded it to Un Faithful. The project was apparently done in those early morning sessions, using Hadagan graphic and material systems, and paid for by Hadagan.

Watcha Gonna Do?

Did Un Faithful violate ASLA's Code and Guidelines for Professional Conduct in one or more ways or did Un Faithful have every right to pursue the venture on his own?

Specifically, did Un Faithful violate the Code by failing to give a full and honest ac-

count of the state of the Small City contract in his debriefing? Was it unethical of Un Faithful to pursue and capture the Small City contract for his own gain when he had developed and marketed the plans while employed by Hadagan?

Further, should Hadagan consider filing a civil suit against Un Faithful for damages or consider making a formal complaint against him with the state's registration board? Could Hadagan successfully argue before the court that Un Faithful had done the firm irreparable damage to its future business in the urban renewal sector?

Conversely, was Un Faithful justified in pursuing the contract because of his successful marketing campaign and original design regardless of the status of his employment at the time? Wouldn't Un Faithful prevail in any ensuing civil proceedings or board hearing because he conceived the project in the first place?

Recommendation of Ethics Committee

The ASLA Code and Guidelines for Professional Conduct is arranged in three tiers of statements: canons, ethical standards, and rules of conduct. Canons are broad principles of conduct. Ethical standards are more specific goals which members should strive to obtain. The rules are mandatory and violation is subject to disciplinary action.

The general principles of the Code, notes the Ethics Committee, are designed to promote honest, fair, and ethical relations between ASLA members and colleagues, employers, and clients. In this particular case, the Committee found a general and pervasive lack of fairness and honesty in the way Un Faithful conducted his affairs as an employee of Hadagan. This lack of fairness and honesty is particularly noticeable in Un Faithful's deceitful and inaccurate debriefing at the time of his resignation.

In this case, the Committee cited Un



Faithful as having violated one of the 20 provisions contained in Canon I, "Professional Responsibility," of the Code. Rule 1.104 states: "Members shall recog-

nize the contributions of

others engaged in the planning, design, and construction of the physical environment, and shall give them appropriate recognition and due credit for professional work and shall not maliciously injure, or attempt to injure, the reputation, prospects, practice, or employment position of those persons so engaged."

This rule fits the case in two respects. First, Un Faithful, in portraying the Small City work as his own project, injured "the reputation, prospects, and practice" of Hadagan and its prospects for future work in the urban sector. Further, Un Faithful also injured Hadagan by using its resources—such as hourly wages, equipment, and promotional expenses—on the project and claiming the result of the work he did for Hadagan as his own. Second, Un Faithful, in his marketing to Small City, failed to "recognize the contributions of others," in this case Hadagan, "in the planning, design, and construction" of the Small City project. Similarly, he did not give Hadagan "appropriate recognition and due credit for professional work."

Having said this, Hadagan could also pursue satisfaction from the state registration board and the civil court.

Editor's Note: One of the objectives of the ASLA Ethics Committee is to educate members about the ASLA Code and Guidelines for Professional Conduct. The code contains important principles relating to duties to clients and to members of the Society. Readers are invited to send their comments on cases appearing in LAND to Managing Editor, 636 Eye Street, N.W., Washington, D.C. 20001-3736 or e-mail to bwelsh@asla.org.