

Whatcha Gonna Do?

The Situation

After an apprenticeship with a small, but nationally known firm, Late Start opened his own firm. He quickly was commissioned to design a large, multiphased commercial development, to be known as Summerwoods. His younger brother, Up, passed the Landscape Architect Registration Exam, and joined Late, to form Start & Start, but after a year or so, Up, a member of ASLA, left his brother to form Up Start Associates.

One Sunday, Late was reading the *San Francisco Examiner's* real estate section, when he saw a photo of his Summerwoods project, and a story about the prestigious award it had received by a national green industry. The landscape architect to receive the award was none other than Up Start, who had not worked on the first constructed phase shown in the photograph. He had, however, taken the commission for subsequent phases with him when he left his brother.

Whatcha Gonna Do?

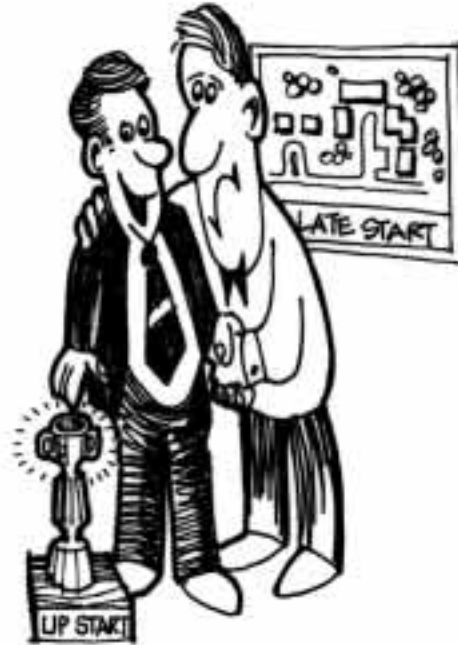
Who deserved the credit for the award-winning project? If you were Late Start what would you do? Scold Up Start? Seek guidance from the ASLA Ethics Committee?

If you were Up Start what would you do? Would you invite your brother to the awards ceremony to watch you get your photo taken or would you seek a good attorney?

Does credit for the first phase of the project belong to Late Start, who held the original contract, or was it transferred to Start & Start?

The Recommendation of the Ethics Committee

Despite whether credit for the project belonged to Late Start or Start & Start, the ASLA Ethics Committee found Up Start in violation of the



VAN L. COX, FASLA

ASLA Code and Guidelines for Professional Conduct for misleading and deceiving the public about which firm was actually responsible for the contract and work. The committee cited several parts of the code to support its decision.

Rule 1.105 states, "Members shall recognize 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....Credit shall be given to the design firm of record for the use of all project documents, plans, photographs, sketches, reports, or other work products developed while under the management of the design firm of record."

Rule 1.106 states, "Members shall not mislead, through advertising or other means, existing or prospective clients about the results that can be achieved through the use of the member's services...."

Rule 1.108 states, "Members shall not take credit for work performed

under the direction of a former employer beyond the limits of their professional involvement and shall give credit to the performing firm."

The committee notes, however, that Up Start could submit photographs of later sections of Summerwoods that he designed for future awards.

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 NW, Washington DC 20001-3736 or E-mail to bwelsh@asla.org. Members are invited to submit questions regarding ethical matters along with supporting data to Allen Hixon, FASLA, Ethics Committee Chair, c/o ASLA, 636 Eye Street NW Washington DC 20001-3736.