

Disciplinary Case Summaries

No. 19PDJ015. People v. Burden. 3/21/2019. The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and publicly censured Charles James Burden (attorney registration number 50232), effective March 21, 2019.

On August 8, 2017, a Broomfield County jury found Burden guilty of a DUI, careless driving, driving on the wrong side of a divided highway, and DUI per se. He was sentenced

to 30 days in jail with work release, 18 months of probation with monitored sobriety, and 48 hours of useful public service. He was also ordered to pay fines and costs.

On August 21, 2017, Burden pleaded guilty to another DUI in Jefferson County. He was sentenced to 365 days in jail. He served the first 10 days in jail with work release, and served the remaining 355 days in the out-mate program. Burden was sentenced to two years of probation

with monitored sobriety, alcohol treatment, and completion of a Mothers Against Drunk Driving panel. He was also ordered to complete 48 hours of useful public service and to pay fines and costs.

Through his conduct, Burden violated Colo. RPC 8.4(b) (a lawyer shall not commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects). The case file is public per CRCP 251.31.

No. 18PDJ046. People v. Hill. 3/15/2019.

A hearing board suspended Lawrence R. Hill, attorney registration number 17447, for one year and one day, all but six months stayed upon completion of a three-year period of probation with conditions, including alcohol monitoring and treatment. The suspension was effective April 19, 2019.

In 2017, Hill and his wife went to a bar, where they consumed alcohol and argued in the parking lot. Hill's wife made him walk home from the bar. When Hill returned home, he found a baseball bat, walked up the stairs, and entered his wife's bedroom, where he verbally threatened her while brandishing the baseball bat. He pleaded guilty to menacing, a class 3 misdemeanor. His conduct and guilty plea involved an underlying factual basis of domestic violence.

Through his conduct, Hill violated Colo. RPC 8.4(b) (a lawyer shall not commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects) and CRCP 251.5(b) (a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer amounts to grounds for discipline).

No. 19PDJ023. People v. Nebeker. 4/2/2019.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct in this reciprocal discipline matter and publicly censured William Albert Nebeker (attorney registration number 46057), effective April 2, 2019.

On June 28, 2018, the Presiding Disciplinary Judge for the Supreme Court of Arizona issued an order reprimanding Nebeker, accepting



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Nebeker's stipulation that he violated Arizona RPC 5.3 (nonlawyer assistants), Arizona RPC 1.15(a) and (d) (safekeeping property), and Arizona Trust Account Rules 43(a), 43(b)(1) (A)–(C), and 43(b)(2)(A)–(D). The parties in the Arizona disciplinary case stipulated that an accountant at Nebeker's law firm engaged in a sophisticated scheme to embezzle money from the firm's trust account. Nebeker acknowledged that, as a partner in his law firm and as the sole attorney with signatory authority on the trust account, he negligently failed to maintain adequate trust account records, negligently failed to perform monthly three-way reconciliations, negligently failed to safeguard client property, and negligently failed to supervise his employee.

Through this conduct, Nebeker engaged in conduct constituting grounds for discipline under CRCP 251.21.

No. 18PDJ062. People v. Schwartz. 4/18/2019. The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Gabriel Nathan Schwartz (attorney registration number 35915) for one year and one day, with three months and one day to be stayed upon successful completion of a two-year period of probation, with conditions. The suspension takes effect June 17, 2019.

In August 2011, a trust beneficiary—whose trust had not yet been funded—met with Schwartz to learn about trusts and his potential inheritance following the death of his parents. The beneficiary retained Schwartz to represent him in a probate matter. The engagement letter, in part, provided that Schwartz was entitled to a contingency fee of 40% for gross monies collected during certain phases of litigation.

After the designated party declined to serve as trustee for the beneficiary's trust, Schwartz sought to be appointed as successor trustee. During a hearing in the probate matter, Schwartz testified that he understood the concerns about potential conflicts, namely that he had previously represented and continued to represent the beneficiary at the time. Schwartz did not disclose at the hearing that he intended to claim entitlement to a 40% contingency fee based on the amount of money that was used to fund the trust. Schwartz was appointed as trustee.

About three years later, the beneficiary became concerned about the trust. He hired another lawyer, who moved the probate court to remove Schwartz as trustee and to assess damages against him. Schwartz resigned as trustee. The probate court then held a trial to determine questions of damages to be assessed against Schwartz.

By paying himself a 40% contingency fee for his minimal work as an attorney in the probate matter for the beneficiary—during which no litigation took place and no monies were collected—Schwartz violated Colo. RPC 1.5(a) (a lawyer shall not agree to, charge, or collect an unreasonable fee). By representing the beneficiary in the probate matter while his ability to do so was materially limited by his own interests, including by having himself appointed as the trustee of the beneficiary's trust without disclosing to the probate court his

intention to claim a 40% contingency fee out of money paid to the trust, Schwartz violated Colo. RPC 1.7(a) (a lawyer shall not represent a client if the representation involves a concurrent conflict of interest). The case file is public per CRCP 251.31.

No. 16PDJ062. People v. Wollrab. 8/2/2018. On remand from the Colorado Supreme Court, a hearing board suspended James C. Wollrab (attorney registration number 01906) for a period of nine months, with the requirement that he seek reinstatement, if at all, under CRCP 251.29(c). Wollrab's suspension took effect February 5, 2018. Wollrab appealed the hearing board's opinion on remand; the Colorado Supreme Court affirmed on March 15, 2019. To be reinstated, Wollrab will bear the burden of proving by clear and convincing evidence that he has been rehabilitated, has



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complied with disciplinary orders and rules, and is fit to practice law.

Wollrab engaged in two separate business transactions with his client and friend. In one transaction, he drafted for himself a lifetime lease for office space at far below market rates, stripping out all provisions that would have protected his client, the landlord. He thereby violated Colo. RPC 1.8(a)(1)-(3) (a lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security, or other pecuniary interest adverse to a client unless certain protections are in place). In another transaction in which he drafted an option that gave him the right to purchase a 50% stake in a property then worth \$3 million for just \$200,000, Wollrab failed to obtain his client's written informed consent to his role in the deal, in violation of Colo. RPC 1.8(a)(3). The case file is public per CRCP 251.31. 

These summaries of disciplinary case opinions and conditional admissions of misconduct are prepared by the Office of the Presiding Disciplinary Judge and are provided as a service by the CBA; the CBA cannot guarantee their accuracy or completeness. Full opinions are available on the Office of the Presiding Disciplinary Judge website at www.coloradosupremecourt.com/PDJ/PDJ_Decisions.asp.



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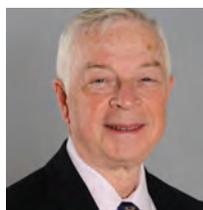
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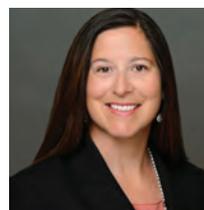
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