

# Disciplinary Case Summaries

## **No. 19PDJ064. People v. Gomez.** 8/23/2019.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and disbarred Ernest Gomez (attorney registration number 26321), effective September 27, 2019. Gomez is required to pay restitution to his former client.

Gomez was hired in an allocation of parental responsibilities action in 2018. Per his instructions, his client deposited her initial retainer of \$2,000 into Gomez's personal checking account, resulting in commingling of client funds with Gomez's own funds. Gomez never transferred any of the client's funds into his trust account, which has seen no activity since 2007. Within two weeks of the retainer deposit, he consumed all of the client's funds for personal expenses without having earned the funds. This amounted to knowing conversion of client funds.

Several months later, and after Gomez had completed some work on the case, the client deposited additional money into the same personal checking account. He again commingled those funds with his own and knowingly converted them. After the permanent orders hearing, Gomez promised to prepare the client's final bill and to refund any unearned fees. Over the course of the following five months, the client repeatedly contacted Gomez to request an accounting and a refund. He ultimately told her that he owed her \$500. At that time, however, he had insufficient funds to make that refund. Gomez failed to provide a final bill, a refund, or any other explanation to his client.

Through this conduct, Gomez violated Colo. RPC 1.4(a)(3) (a lawyer shall keep a client reasonably informed about the status of the matter); Colo. RPC 1.4(a)(4) (a lawyer shall promptly comply with reasonable requests for

information); Colo. RPC 1.15A(a) (a lawyer shall hold client property separate from the lawyer's own property); Colo. RPC 1.15(B)(a)(1) (a lawyer in private practice shall maintain a trust account into which the lawyer shall deposit funds entrusted to the lawyer's care and advance fees); Colo. RPC 1.15C(a) (a lawyer shall not withdraw cash from a trust account); Colo. RPC 1.15C(b) (setting forth requirements governing trust account withdrawals and transfers); Colo. RPC 1.15C(c) (requiring a lawyer to reconcile trust account records on at least a quarterly basis); Colo. RPC 1.15D (a lawyer shall maintain trust account records); Colo. RPC 1.16A (a lawyer in private practice shall retain a client's file unless the lawyer gives the file to the client, the client authorizes the destruction, or the lawyer has notified the client in writing of the intention to destroy the file); and Colo. RPC 8.4(c) (providing that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation).

The case file is public per CRCP 251.31.

## **No. 19PDJ065. People v. Gonzales.** 9/3/2019.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Bernadette Teresa Gonzales (attorney registration number 31676) for 90 days, all to be stayed upon successful completion of probation. The probation took effect September 3, 2019.

Gonzales, a solo practitioner, was hired by a woman to represent her step-grandson in pending criminal and dependency and neglect proceedings against him. No formal fee agreement was executed, and the precise scope of representation for which Gonzales was retained is disputed by the parties. The parties also dispute whether lawyer-client confiden-

tiality had been waived to allow Gonzales to communicate with the step-grandmother, and if so, to what extent. Gonzales was paid \$1,000 at the outset of representation, which she deposited into her operating account. Gonzales did not provide an accounting of the funds when the step-grandmother so requested several months later, believing it would have breached client confidentiality. At the time the \$1,000 was deposited into Gonzales's operating account, she had spent less than two hours on the matter.

In another matter, Gonzales represented a client in her divorce proceeding. Gonzales did not have a written fee agreement, nor did she provide the client any other written basis of her fee. Near the beginning of the representation, Gonzales deposited two client payments, each for \$1,000, directly into her operating account. Gonzales billed the client on an hourly fee basis, ultimately incurring fees totaling more than the amount deposited. She had not, however, performed work equal to the amount of the deposits at the time they were placed in the operating account.

Through this conduct, Gonzales violated Colo. RPC 1.2(c) (a lawyer may limit the scope of representation so long as the limitation is reasonable and the client gives informed consent); Colo. RPC 1.5(b) (a lawyer shall inform a client in writing about the lawyer's fees and expenses within a reasonable time after being retained, if the lawyer has not regularly represented the client); Colo. RPC 1.8(f) (a lawyer shall not accept compensation for representing a client from someone other than the client unless the client gives informed consent); 1.15A(a) (a lawyer shall hold client property separate from the lawyer's own property); and 1.16(d) (a lawyer shall protect a client's interests upon termination of the representation, including by giving reasonable notice to the client and returning unearned fees and any papers and property to which the client is entitled).

The case file is public per CRCP 251.31.

## **No. 18PDJ063 (consolidated with 19PDJ042). People v. Romero.** 9/3/2019.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct

and suspended Douglas L. Romero (attorney registration number 35464) for a period of three years, effective September 3, 2019. The suspension is to be served concurrently with a seven-month suspension that Romero is currently serving. To be reinstated, Romero will bear the burden of proving by clear and convincing evidence that he has been rehabilitated, has complied with disciplinary orders and rules, and is fit to practice law.

Romero was suspended from law practice in Colorado from February to October 2017. During that time, Romero engaged in dishonest conduct by concealing from sheriff's deputies at a jail the fact that he was suspended; through this deception he gained access to the jail that otherwise would have been denied. In a separate matter, Romero continued to engage in settlement negotiations with opposing counsel in a personal injury matter during his suspension. Romero did not advise opposing counsel of his suspension. Also while suspended, Romero drafted for another client a "disengagement letter," which included legal opinions about the client's appellate remedies but did not notify the client of his suspension.

Romero failed to maintain proper financial records and thus kept clients' earned fees in his firm's trust account, commingling his firm's earned money with client money. Romero wrote four checks to "Cash" from his firm's trust account between 2015 and 2017. He also wrote and signed dozens of checks from his firm's operating and trust accounts during his suspension without supervision by a Colorado lawyer in good standing.

In another client matter, Romero disobeyed a court order directing him to participate in the drafting of a proposed case management order and misrepresented to the court why he had not participated in the drafting.

In several client matters, Romero did not act with diligence, thereby prejudicing the administration of justice, and failed to keep his clients informed about his billing practices. He also charged two clients an unreasonable fee. Further, he transferred unearned fees in one client matter from the firm's trust account to the firm's operating account, and he failed to return to the client unearned fees.

Through this conduct, Romero violated Colo. RPC 1.3 (a lawyer shall act with reasonable diligence and promptness when representing a client); Colo. RPC 1.4(a)(3) (a lawyer shall keep a client reasonably informed about the status of the matter); Colo. RPC 1.5(a) (a lawyer shall not make an agreement for, charge, or collect an unreasonable fee); Colo. RPC 1.15A(a) (a lawyer shall hold client property separate from the lawyer's own property); Colo. RPC 1.15C(a) (a lawyer shall not withdraw cash from a trust account); Colo. RPC 1.15C(b) (setting forth requirements governing trust account withdrawals and transfers); Colo. RPC 1.15D(a)(1)(A) (a lawyer shall maintain trust account records); Colo. RPC 1.16(d) (upon termination a lawyer must take steps to protect a client's interests, including by giving reasonable notice to the client); Colo. RPC 3.3(a)(1) (a lawyer shall not knowingly make a false statement of

material fact or law to a tribunal); Colo. RPC 3.4(c) (a lawyer shall not knowingly disobey an obligation under the rules of a tribunal); Colo. RPC 5.5(a)(2) (a lawyer shall not practice law in a jurisdiction where doing so violates the regulations of the legal profession in that jurisdiction); Colo. RPC 8.4(c) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation); and Colo. RPC 8.4(d) (a lawyer shall not engage in conduct prejudicial to the administration of justice).

The case file is public per CRCP 251.31.

**No. 18PDJ038. People v. Steinman.** 1/11/2019. A hearing board suspended David R. Steinman (attorney registration number 39853) for six months, with three months to be served and the remainder to be stayed upon successful completion of a one-year period of probation, with conditions. The Colorado Supreme Court

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affirmed the hearing board's decision on July 24, 2019, and Steinman's suspension took effect on August 21, 2019.

In 2017, Steinman was hired as a full-time deputy district attorney in the 18th Judicial District. The elected district attorney told Steinman that he had to stop working on outside cases, as required by state statute. Steinman later confirmed to the district attorney's office that he was no longer working on outside cases. Yet he represented a client in a civil matter for about six months while employed in the 18th Judicial District. Further, on several occasions he misrepresented his status as a deputy district attorney to a lawyer involved in the civil case. When his deceit was discovered, he misrepresented his involvement in the civil case to his supervisors in the district attorney's office. Steinman stipulated to judgment on the pleadings as to Colo. RPC 8.4(c) (it is professional misconduct for a lawyer to make misrepresentations).

The case file is public per CRCP 251.31.

**No. 19PDJ066. People v. Stevens.** 9/17/2019. The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and publicly censured Christopher C. Stevens (attorney registration number 48342), effective September 17, 2019.

On August 30, 2017, Stevens pleaded guilty to a misdemeanor offense of driving while under the influence of alcohol (DWAI) in Larimer County. The conviction was based on an April 2017 incident in which Stevens struck a road sign while intoxicated. Through a breath test, his blood alcohol content was measured at 0.198.

Stevens was sentenced to 455 days in jail, with 365 days suspended and the remainder served on work release, which he successfully moved to transition to in-home detention and 30 months of probation. Conditions of probation included monitored sobriety, 40 hours of community service, and alcohol therapy.

Stevens reported his conviction to disciplinary authorities. Before his admission to practice law in Colorado, he had been convicted two previous times of driving while intoxicated.

Through this conduct, Stevens violated Colo. RPC 8.4(b) (it is professional misconduct for a lawyer to 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. 19PDJ063. People v. Streker.** 8/21/2019. The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and publicly censured Edward Joseph Streker (attorney registration number 38869), effective August 21, 2019. The sanction took into account an overwhelming number of mitigating conditions.

Streker entered into an arrangement with a company called "Want a Fresh Start," which offered advertising and lead-generation services for bankruptcy matters. When a potential client responded to Fresh Start's advertisements, the company would schedule a meeting between the potential client and Streker. Streker would then sign a fee agreement with any clients he accepted. Fresh Start required Streker to keep his legal fees very low, and the fees were to be paid directly to Streker. Fresh Start guaranteed Streker's income stream up to \$65,000 per year and promised to make up "short" months. Streker was obligated to pay the company a portion of any fees he collected in excess of \$65,000 per year.

Fresh Start sent Streker many potential clients, and he was unable to keep up with the workload. His mental health worsened. He fell behind in the bankruptcy cases, failing to file required documents, to follow up with his clients to obtain required documents, and to comply with applicable court rules. The U.S. Trustee's office investigated his practices. Streker cooperated with that office and ultimately entered into a settlement agreement requiring his disgorgement of fees and enjoining him from bankruptcy practice. Streker complied with the agreement and severed his ties with Fresh Start.

Through this conduct, Streker violated Colo. RPC 1.1 (a lawyer shall competently represent a client); Colo. RPC 1.3 (a lawyer shall act with reasonable diligence and promptness when representing a client); Colo. RPC 1.4(b) (a lawyer shall explain a matter so as to permit the client to make informed decisions regarding the representation); and Colo. RPC 5.4(b) (a lawyer shall not form a partnership with a nonlawyer if

any of the partnership's activities consist of the practice of law). He also attempted to violate Colo. RPC 5.4(a) (a lawyer shall not share legal fees with a nonlawyer).

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](http://www.coloradosupremecourt.com/PDJ/PDJ_Decisions.asp).

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