

People v. Allyn. 10PDJ068. February 7, 2011. Attorney Regulation.

The Presiding Disciplinary Judge disbarred Glenn B. Allyn (Attorney Registration No. 25428), effective March 10, 2011. Allyn was disbarred by the New York Supreme Court for failing to comply with disciplinary rules related to business relationships with clients, escrow accounts, and handling client funds. His misconduct was tantamount to violations of Colo. RPC 1.15 and Colo. RPC 8.4(c) and constituted grounds for the imposition of reciprocal discipline pursuant to C.R.C.P. 251.21(a).

SUPREME COURT, STATE OF COLORADO ORIGINAL PROCEEDING IN DISCIPLINE BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1560 BROADWAY, SUITE 675 DENVER, CO 80202	
Complainant: THE PEOPLE OF THE STATE OF COLORADO Respondent: GLENN B. ALLYN	Case Number: 10PDJ068
DECISION AND ORDER IMPOSING RECIPROCAL DISCIPLINE PURSUANT TO C.R.C.P. 251.21(e)	

This matter is before the Presiding Disciplinary Judge (“the Court”) on “Complainant’s Motion for Determination of a Question of Law Regarding Sanctions and to Vacate Sanctions Hearing” filed by Adam J. Espinosa, Office of Attorney Regulation Counsel (“the People”), on November 12, 2010. Glenn B. Allyn (“Respondent”) did not file a response to the motion and the Court granted it on November 16, 2010. The Court issues the following “Decision and Order Imposing Reciprocal Discipline Pursuant to C.R.C.P. 251.21(e).”

I. ISSUE AND SANCTION

The Court may impose the same discipline as imposed by a foreign jurisdiction if the People do not seek substantially different discipline and if the respondent does not challenge the order on any of the grounds set forth in the rules. Respondent did not challenge his disbarment by the New York Supreme Court for failing to comply with disciplinary rules related to business relationships with clients, escrow accounts, and handling client funds. Accordingly, the Court disbars Respondent from the practice of law.

II. PROCEDURAL HISTORY

The People filed a citation and complaint in this matter on June 21, 2010. On July 8, 2010, the People mailed the citation and complaint to Respondent at his home address, 14 Crescent Dr., Elmsford, NY 10523. Respondent personally signed for receipt of the citation and complaint at his home address on July 26, 2010. The People filed a “Proof of Service of Citation and Complaint” on July 29, 2010.

On August 27, 2010, the People filed “Complainant’s Motion for Default.” Respondent failed to respond to the motion and the Court granted it on September 30, 2010. The facts and rule violations contained in the complaint have therefore been established by clear and convincing evidence.¹

III. ESTABLISHED FACTS AND RULE VIOLATIONS

The Court hereby adopts and incorporates by reference the factual background of this case fully detailed in the admitted complaint.² Respondent took and subscribed the Oath of Admission and gained admission to the Bar of the Colorado Supreme Court on April 21, 1995. He is registered upon the official records, Attorney Registration No. 25428, and is subject to the jurisdiction of the Court pursuant to C.R.C.P. 251.1.

On April 22, 2010, the Supreme Court of the State of New York Appellate Division: Second Judicial Department (“New York Supreme Court”) entered its “Opinion & Order” disbaring Respondent from the practice of law.³ The disciplinary case came before the New York Supreme Court after thirty-seven charges alleged by the State of New York Grievance Committee for the Ninth Judicial District (“Grievance Committee”) against Respondent had been sustained by the Special Referee at hearings on July 15, 2008, and October 21, 2008. Subsequently, the Grievance Committee moved the New York Supreme Court to confirm the Special Referee’s report and to impose discipline.

After a hearing, the New York Supreme Court concluded that the Special Referee properly found that the charges against Respondent had been proven by a preponderance of the credible evidence, and as such, granted the Grievance Committee’s motion to confirm the Special Referee’s report. The New York Supreme Court then considered evidence and testimony regarding the appropriate level of discipline to impose and disbarred Respondent, effective April 22, 2010. Respondent did not notify the People he had been disbarred from the practice of law as required by C.R.C.P. 251.21(b).

The New York Supreme Court disbarred Respondent for violating several ethical rules related to a business relationship he had entered into with a client and related to his New York State Interest on Lawyer Account (“IOLA”) and an escrow account. The violations involved three separate transactions.

¹ See *People v. Richards*, 748 P.2d 341 (Colo. 1987); C.R.C.P. 251.15(b). See also C.R.C.P. 251.21(a) (“Except as otherwise provided by these Rules, a final adjudication in another jurisdiction of misconduct constituting grounds for discipline of an attorney shall, for purpose of proceedings pursuant to these Rules, conclusively establish such misconduct.”)

² See the People’s complaint in 10PDJ068 for further detailed findings of fact.

³ See Exhibit 1 to the People’s “Complaint” filed on June 21, 2010.

First, Respondent violated ethical rules related to the development of a business relationship with a client where Respondent funded the client's magazine publication.⁴ Second, Respondent violated ethical rules related to the handling of the "Law Office of Glenn B. Allyn IOLA account" when he failed to properly title and identify his IOLA account, failed to maintain required bookkeeping records, disbursed escrow checks to cash, commingled personal and/or business funds with client funds, and disbursed funds on deposits in the IOLA account to various business in which he and/or both he and his family members were principals.

Finally, Respondent violated ethical rules related to the handling of the "Allyn, Hausner & Montanile's escrow account" when he failed to maintain required bookkeeping records, disbursed escrow checks to cash, disbursed funds on deposits for personal and/or business purposes, made undocumented loans to various businesses in which he and/or both he and his family members were principals, commingled personal funds with client funds, disbursed funds held in trust for the benefit of a particular client without proper documentation, and failed to safeguard funds entrusted to him as a fiduciary resulting in a negative balance.

Respondent's misconduct related to his IOLA and escrow account is tantamount to violations of Colo. RPC 1.15 and Colo. RPC 8.4(c). Further, the New York Supreme Court adopted a finding from the Special Referee that his conduct demonstrated "a weak understanding of the disciplinary rules related to escrow accounts and the handling of client funds."

IV. SANCTIONS

"If the People do not seek substantially different discipline and if the respondent does not challenge the order . . . the Presiding Disciplinary Judge may, without a hearing or a Hearing Board, issue a decision imposing the same discipline as imposed by the foreign jurisdiction."⁵ As set forth in greater detail above, the New York Supreme Court disbarred Respondent from the practice of law for his misconduct. The People seek the same discipline imposed by the New York Supreme Court and Respondent has not challenged the challenged the order in these proceedings. Accordingly, the Court concludes that disbarment is the appropriate sanction in this case.

⁴ *Id.*

⁵ C.R.C.P. 251.21(e).

V. ORDER

The Court therefore **ORDERS**:

1. Glenn B. Allyn, Attorney Registration No. 25428, is hereby **DISBARRED** from the practice of law. The disbarment **SHALL** become effective thirty-one days from the date of this order upon the issuance of an “Order and Notice of Disbarment” by the Court and in the absence of a stay pending appeal pursuant to C.R.C.P. 251.27(h).
2. Respondent **SHALL** file any post-hearing motion or application for stay pending appeal with the Court **on or before Tuesday, February 22, 2011**. No extensions of time will be granted.
3. Respondent **SHALL** pay the costs of these proceedings. The People shall submit a “Statement of Costs” within fifteen (15) days of the date of this order. Respondent shall have ten (10) days within which to respond.

DATED THIS 7TH DAY OF FEBRUARY, 2011.

WILLIAM R. LUCERO
PRESIDING DISCIPLINARY JUDGE

Copies to:

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Susan Festag
Colorado Supreme Court