

People v. Dale Robert Enck. 20PDJo56. August 28, 2020.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and disbarred Dale Robert Enck (attorney registration number 14395). The disbarment took effect August 28, 2020.

Enck converted client funds during two separate representations. Enck consumed the clients' retainers without their authorization before performing any legal services on their cases. In both instances, Enck did not return any portion of the retainer to the client. One of the clients retained Enck ahead of litigation over a business dispute. After receiving the complaint, Enck sent the client a draft answer without first discussing with her the facts of the case. Despite the ongoing litigation, the email containing the draft answer was the last communication Enck sent to the client, who eventually retained new counsel after learning that Enck had been arrested in early 2020. Through her new counsel, the client discovered that Enck filed the answer only after receiving a motion for default judgment, and that Enck failed to include any obvious counterclaims in the answer. The client and her new counsel attempted without success to convince Enck to withdraw from the case, return the client file, and refund any portion of the retainer. Enck represented the second client in a DUI matter. The client requested and obtained Enck's withdrawal from her case after learning of Enck's arrest, but Enck never returned her file, nor did he send her an accounting of her funds or any unearned portion of her retainer.

In another matter, Enck represented a client pursuing litigation over a soured real estate transaction. Enck accepted \$20,000.00 from the client in an arrangement that was not covered by a fee agreement. Enck filed a complaint for the client in 2016, but thereafter the case twice was almost dismissed for failure to prosecute. Enck failed to respond to the client for long stretches during the litigation, and the client often had to call the courthouse to learn about the status of his case. Enck entirely ceased communications with the client after September 2019, and he has not refunded any portion of the client's payment.

Through this conduct, Enck 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 1.4(a)(4) (a lawyer shall promptly comply with reasonable requests for information); 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 1.5(f) (a lawyer does not earn fees until a benefit is conferred on the client or the lawyer performs a legal service); Colo. RPC 1.15A (setting forth requirements for lawyers regarding property of clients and third parties); Colo. RPC 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); 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 C.R.C.P. 251.31.