

People v. Richard D. Garcia. 14PDJ028. November 5, 2014.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Richard D. Garcia (Attorney Registration Number 18126) for nine months, with thirty days served and the remainder stayed pending completion of a two-year period of probation. The suspension takes effect December 10, 2014.

Garcia agreed to represent a client in a DUI and vehicular assault case. He accepted a \$2,000.00 flat fee from the client's grandmother. Rather than depositing the unearned funds in his trust account, he deposited them in his operating account, thereby placing the funds at risk. By doing so, Garcia violated Colo. RPC 1.5(f) (a lawyer does not earn fees until the lawyer confers a benefit on the client or performs a legal service for the client) and Colo. RPC 1.15(a) (a lawyer shall hold property of a client or third person separate from the lawyer's own property).

Garcia's services were terminated about three weeks later. He agreed to accept \$500.00 for work he had performed. Although he said he would refund the remainder of the fee a week after his discharge, he failed to do so. After two weeks, Garcia sent his client and her grandmother a check for \$2,000.00, along with an invoice for \$1,480.00, which he said the client owed him. More than a year and a half later, after a request for investigation was filed, Garcia refunded the \$2,000.00 and withdrew his invoice. These actions deprived his client's grandmother of the use of the unearned fees and caused both his client and her grandmother emotional distress. Through this conduct, Garcia violated Colo. RPC 1.16(d) (a lawyer shall take steps to protect a client's interest and surrender property to the client upon termination).