

People v. Paul T. Gefreh. 16PDJo74. October 12, 2016.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Paul T. Gefreh (attorney registration number 08291) for one year and one day, all but three months to be stayed upon successful completion of a one-year period of probation, with conditions. His suspension will take effect on November 16, 2016.

Gefreh, a bankruptcy attorney, was retained by a lawyer who had been disbarred for knowing conversion. The lawyer's disbarment order required him to pay restitution to several former clients, as well as more than \$220,000.00 to a medical lienholder. On the client's behalf, Gefreh filed a Chapter 13 bankruptcy petition. He did so to stall a foreclosure sale on the client's house in the hopes of protecting from creditors up to \$105,000.00 in equity under the homestead exemption, and to avoid entangling the client's second property in Crested Butte in a Chapter 7 bankruptcy. The petition showed that the client's debt was over 99% of the allowable limit for Chapter 13 cases. The petition did not, however, list the \$220,000.00 debt to the lienholder; instead, it characterized the amount of the debt as "unknown," "unliquidated," and "disputed." Had that debt to the lienholder been included in the client's total debt, the amount would have exceeded the Chapter 13 debt limit. Further, the petition omitted specific amounts of debts that the client owed to forty-one other individuals.

Gefreh also drafted the petition to state that his client had earned no income during the two prior years, even though the client's disciplinary stipulation provided that he had received over \$300,000.00 during that same period. Even if the client's income had been listed as \$300,000.00, however, Gefreh knew that the client did not have enough income to fund a Chapter 13 plan and thus that the petition had no hope of succeeding.

Though Gefreh was asked to convert the Chapter 13 filing to a Chapter 7 filing, he did not do so for almost a month, and only then after a motion was filed to convert. The motion argued that Gefreh had filed for Chapter 13 bankruptcy in bad faith. Gefreh contends that his client did not permit him to convert the bankruptcy in a timely fashion. Gefreh now acknowledges that the case was likely to be dismissed or converted before the first meeting of creditors, and he recognizes that it was "professionally inappropriate" to file under Chapter 13.

Gefreh's conduct violated Colo. RPC 1.16(a) (a lawyer shall withdraw from representation if the representation will result in ethical violations); Colo. RPC 3.1 (a lawyer shall not assert frivolous claims); 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 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).