

People v. Ernest Gomez. 19PDJ064. August 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 \$2,000.00 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 \$500.00. 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 C.R.C.P. 251.31.