***People v. Becky L. Keil*. 15PDJ085 (consolidated with 16PDJ008). September 27, 2016.**

A hearing board disbarred Becky L. Keil (attorney registration number 31039) from the practice of law. Keil's disbarment took effect on November 3, 2016.

Keil volunteered to provide legal representation to family friends reeling from a tragic and terrifying double homicide for hire. Soon, however, her communication waned, and she only intermittently responded to her clients' questions. When she did respond, she assured her clients—falsely—that she was actively advancing their interests in court. Her clients eventually terminated the representation, around the same time that the statute of limitations expired on their claim. During this representation, Keil 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 a 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 3.2 (a lawyer shall make reasonable efforts to expedite litigation consistent with the interest of the client); and Colo. RPC 8.4(c) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation).

Later, in an apparent effort to excuse her earlier inaction, Keil twice staged her own abduction and made up spurious stories of threats and menacing. She was convicted of one felony count of attempting to influence a public servant and one misdemeanor count of false reporting to authorities. Through this misconduct, Keil violated Colo. RPC 8.4(b) (it is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects).

Please see the full opinion below.

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| SUPREME COURT, STATE OF COLORADO<br><br>ORIGINAL PROCEEDING IN DISCIPLINE BEFORE<br>THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE<br>1300 BROADWAY, SUITE 250<br>DENVER, CO 80203 | |
| **Complainant:**<br>THE PEOPLE OF THE STATE OF COLORADO<br><br>**Respondent:**<br>BECKY L. KEIL | Case Number:<br>**15PDJ085 (consolidated with 16PDJ008)** |
| **OPINION AND DECISION IMPOSING SANCTIONS UNDER C.R.C.P. 251.19(b)** | |

Becky L. Keil ("Respondent") volunteered to provide legal representation to family friends reeling from a tragic and terrifying double homicide for hire. Soon, however, her communication waned, and she only intermittently responded to her clients' questions. When she did respond, she assured her clients—falsely—that she was actively advancing their interests in court. Her clients eventually terminated the representation, around the same time that the statute of limitations expired on their claim. In an apparent effort to excuse her earlier inaction, Respondent twice staged her own abduction and made up spurious stories of threats and menacing. She was later convicted of one felony count of attempting to influence a public servant and one misdemeanor count of false reporting to authorities. Without question this misconduct warrants disbarment.

## I. PROCEDURAL HISTORY

On September 22, 2015, Catherine S. Shea, Office of Attorney Regulation Counsel ("the People"), filed a complaint against Respondent in case number 15PDJ085 with Presiding Disciplinary Judge William R. Lucero ("the PDJ"). Respondent, through her then-counsel of record Springer and Steinberg, P.C., filed an amended answer on October 15, 2015.[1]

On January 26, 2016, the parties filed in case number 16PDJ008 a "Stipulation for Immediate Suspension Pursuant to C.R.C.P. 251.8." The next day, the PDJ submitted a report to the Colorado Supreme Court, recommending approval of the stipulation. The Colorado

[1] The PDJ granted Respondent's motion to strike her first answer.

Supreme Court adopted that recommendation and immediately suspended Respondent on January 28, 2016.

The People filed an amended complaint in case number 15PDJ085 on January 29, 2016, and Respondent answered on February 24, 2016. On March 1, 2016, the parties participated in a scheduling conference, setting a hearing for June 28-30, 2016. The two cases were then consolidated. The hearing was later continued to July 27-29, 2016. Springer and Steinberg, P.C., moved to withdraw as Respondent's counsel of record on May 24, 2016, and the Court granted that request on June 15, 2016.

During discovery, the People filed a motion to compel Respondent to produce certain documents. Respondent did not respond. The PDJ issued an order dated June 14, 2016, granting the People's motion and directing Respondent to produce to the People seven enumerated categories of documents by noon on June 21. Because Respondent failed to produce those documents, the People moved for sanctions. In a July 14 order, the PDJ ruled that Respondent would be precluded in the upcoming hearing from introducing the documents that she refused to produce. The PDJ granted a second motion for sanctions on July 20, after Respondent failed to file any prehearing materials or to seek an extension of time to file those materials. The PDJ thus barred Respondent from presenting any witnesses or exhibits at her disciplinary hearing, and from submitting a hearing brief or legal authority in advance of the hearing.

At the July hearing, which lasted just one day, the Hearing Board comprised R. Gregory Greer and James X. Quinn, members of the bar, and the PDJ. Shea represented the People. Respondent did not appear, nor did any substitute counsel attend on her behalf. During the hearing, the Hearing Board considered the People's exhibits 1-2, 10, 14-18, 20-23, and 25, and the testimony of Tamara Rafferty, Jack Edward ("Ed") Brown, Melissa Brown, and Detective Michael Lynch.

## II. FACTS AND RULE VIOLATIONS

### Jurisdiction

Respondent took the oath of admission and was admitted to the bar of the Colorado Supreme Court on October 25, 1999, under attorney registration number 31039. She is thus subject to the jurisdiction of the Colorado Supreme Court and the Hearing Board in this disciplinary proceeding.[2]

### The Representation

By early 2013, the relationship between Amara and Chris Wells had become volatile. Though several restraining orders had been entered against Chris Wells, he had violated those orders and been arrested several times. According to Tamara Rafferty, Chris Wells's

[2] *See* C.R.C.P. 251.1(b).

sister, the situation had "accelerat[ed] to a dangerous place." In order to protect Amara Wells and her six-year-old daughter, Ms. Rafferty and her husband, Robert, took the two into their Castle Rock home.

In the early morning of February 23, 2011, a man named Josiah Sher broke into the Raffertys' home and brutally murdered Amara Wells and Robert Rafferty. Sher spared the life of Amara Wells's young daughter, but only after she had witnessed scenes of gruesome violence leading to the deaths of her mother and uncle. Ms. Rafferty, who had been away in Minneapolis on a business trip, was awakened by a call from a friend who told her about news reports of the double homicide.

Immediate family members, including Ms. Rafferty, Amara Wells's sister Melissa Brown, and her husband Jack ("Ed") Brown, were taken to the Douglas County Sheriff's Department shortly after the murders. From there, they were put into protective custody but later released to a family friend's home, where other longtime family friends—including Respondent—soon gathered. Respondent and her husband, John, had known the Raffertys since 1996; John Keil and Robert Rafferty had been in the same line of business, the couples had children of similar ages, and the families had spent a lot of time vacationing together.

Ms. Rafferty introduced Respondent to the Browns, and Respondent offered to act as the family's spokesperson by fielding media requests for statements. Respondent also volunteered to liaise with the coroner's office as Ms. Brown's advocate to secure the release of Amara Wells's body. And Respondent mentioned that she could assist the family in handling estate issues. The Browns immediately agreed that Respondent should open an estate for Amara Wells, petition for Mr. Brown's appointment as personal representative, and represent Mr. Brown by filing estate taxes and handling incoming creditor claims. Respondent also said she would represent Ms. Rafferty, who was personal representative of Mr. Rafferty's estate. Because of pressing issues with the coroner and ongoing media attention, Ms. Rafferty and the Browns verbally agreed to Respondent's representation. Mr. Brown assumed that Respondent undertook this representation as a free service to a friend in need, and no formal agreement concerning payment was ever drafted or signed.

On February 27, 2011, Chris Wells was formally charged with hiring Sher to murder his wife Amara Wells, his sister Tamara Rafferty, and his brother-in-law Robert Rafferty. According to Ms. Rafferty, her brother managed to arrange and pay for the murders-for-hire—at $5,000.00 per victim—from the confines of a jail cell. Douglas County detectives traced the money trail, which revealed that Chris Wells had hidden a sizeable number of marital assets before the murders, most notably $75,000.00 in cash that he had entrusted to an associate named Garth Wilson.

As Ms. Rafferty testified at the disciplinary hearing, this new information placed her in a perpetual state of fear for her own safety and for that of her family: she was terrified that even from prison, her brother might again attempt to have her or the Browns killed, provided he could gain access to the necessary funds. It was the fear that Wilson might funnel the hidden money to her brother, coupled with a desire to recover those assets for

her young niece, Ms. Rafferty said, that prompted her and the Browns to retain Respondent to pursue a claim against those funds for the estates. Respondent explained to them that she could do so under Colorado's "slayer rule," which provided a three-year window from the date of the murders to bring a wrongful death civil claim against Chris Wells, seeking to strip him of all of his marital assets and secure them for the benefit of his daughter and the Raffertys' children.[3] On April 16, 2011, Ms. Rafferty and Mr. Brown, as personal representatives of the estates, entered into a written contingent fee agreement with Respondent to find and recover the assets.[4] Under the agreement, Respondent was entitled to twenty-five percent of any money she collected for the estates.[5]

Around the same time—in early April 2011—Respondent opened a probate matter in Douglas County captioned *In the Matter of Amara L. Wells*, case number 2011PR123, in which Mr. Brown was appointed personal representative of Amara Wells's estate.[6] Respondent's last-filed pleading in that case was dated April 19, 2011.[7]

Through late 2011, Ms. Rafferty said, Respondent communicated with the family, attended several hearings, explained "court lingo," and acted as an intermediary between the sheriffs and the courts. But the communication broke down "considerably" by early 2012, Ms. Rafferty recalled: Respondent was increasingly difficult to reach and often was unresponsive, even in the face of what Ms. Rafferty described as her "exhaustive efforts" to reach Respondent via emails, telephone calls, and text messages. On several occasions, Ms. Rafferty offered to release Respondent from the case and to seek other counsel. On each occasion, Ms. Rafferty testified, Respondent vowed that she was working on the civil suit and insisted that she could handle the representation. It was as if, Ms. Rafferty ruminated, her suggestion of hiring other counsel would spur Respondent to take some new action to further the case, which was "just enough" to placate the family and "to keep us on the hook."[8] Then, as Mr. Brown said, Respondent would "disappear" again.

Around summer 2013, Ms. Rafferty and Ms. Brown discovered that Garth Wilson—Chris Wells's associate—had been depositing $300.00 per month into Wells's Department of Corrections ("DOC") account. Ms. Rafferty described this revelation as "alarming," particularly because Chris Wells's account was approaching $5,000.00—the amount he had offered to pay for her murder. "Our big concern was what he would do with that money,"

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[3] *See* C.R.S. § 15-11-803 (West, Westlaw through 2016 Sess.).
[4] Ex. 2.
[5] Ex. 2. The document also contained a waiver of conflict and an agreement of distribution between the clients.
[6] *See* Ex. 1.
[7] *See* Ex. 1.
[8] *See* Ex. 10 (Ms. Rafferty's email to Respondent dated June 18, 2013, suggesting that she and the Browns retain a different attorney because the "amount of time it takes to keep reaching out to you is getting to be too much. Please know that we appreciate that you are busy but we need to get this done. It has been way to[o] long . . . going on 2 years now."). Ms. Rafferty stated that Respondent never replied to this email. *See also* Ex. 14 (Ms. Rafferty's email to Respondent dated August 22, 2013, proposing that she and the Browns move forward with another attorney and expressing frustration about "the lack of response and priority this is being given").

she explained; "I was extremely concerned for our safety." "Driven by sheer fear," she and Ms. Brown had been working other angles since 2011 to keep money out of Chris Wells's hands. They collaborated with media outlets to expose DOC policies that permitted inmates to amass significant sums in their accounts. They tried to effect legislative changes to those policies in order to limit the amount of money inmates could hold. And they regularly spoke about victims' rights and domestic violence to audiences around the state. Meanwhile, they were counting on Respondent to pursue, via legal channels, recovery of the money Wilson was holding.

Ms. Rafferty regularly updated Respondent about her progress on these various fronts, emphasizing her strong wish to "go after [Wilson] aggressively."[9] But the remainder of 2013 followed the same pattern described above. In late August, Respondent promised to file a proposed court order to move the case forward.[10] Ms. Rafferty asked follow-up questions by email but never received a response.[11] After three more emails from Ms. Rafferty, Respondent represented to her that the court clerk had left her a message that the order was being granted with edits.[12] Two days later, Ms. Rafferty re-sent an email to Respondent begging for more answers and stating, "Again . . . 4 emails a text and a call and still no response."[13] Respondent finally responded that the order had been granted and pledged to "get [it] out for service."[14] About two weeks later, Respondent emailed that she had talked with the clerk, who said that an amended proposed order was on the judge's desk "for review and approval."[15] On September 30, 2013, Respondent said that the order had come in and "was forwarded for service of process via sheriff."[16]

Sometime in October 2013, Respondent told Ms. Rafferty and the Browns that she planned to seek the turnover of estate assets. On October 24, 2013, she sent the family a draft "Motion to Order the Turnover of Estate Assets."[17] The case caption and case number listed on the motion reference the probate matter.[18] Though the motion is undated, it was signed by Respondent as attorney for the estate of Amara Wells.[19] Ms. Rafferty recalled identifying for Respondent one error in the motion, and soon thereafter Respondent told Ms. Rafferty and the Browns that she had filed the motion. In late November, Respondent informed her clients that the court had set a hearing on the motion for December 30, 2013.[20] Ms. Rafferty testified that her family altered its holiday plans so that she could attend the

[9] Ex. 14.
[10] Ex. 14.
[11] Ex. 14.
[12] Ex. 15.
[13] Ex. 15.
[14] Ex. 16.
[15] Ex. 17.
[16] Ex. 18.
[17] Ex. 20.
[18] Ex. 20.
[19] Ex. 20.
[20] Ex. 21.

hearing but that Respondent later informed her the hearing had been continued.[21] Ms. Rafferty reached out to Respondent several times thereafter, but Respondent never replied to her inquiries.[22]

Early in 2014, Ms. Rafferty and Ms. Brown were speaking with their victim advocate during a drive back from a speaking engagement. They vented their frustration about Respondent's lack of communication and questioned whether Respondent's story was "adding up," so their victim advocate volunteered to take a look at the court record. What their advocate found "completely shocked" them, said Ms. Rafferty: Respondent had never made any formal demand to recover funds from Wilson. She had never filed a civil suit, she had never submitted a motion to turn over estate assets, and the court had never issued any order or set any date for a hearing. When Mr. Brown investigated what work had been done in the probate matter, he discovered that Respondent had filed nothing since April 2011. Among other things, Respondent had failed to file income taxes on behalf of Amara Wells's estate and neglected to respond to creditor claims against her estate in the probate matter.

Soon thereafter, Ms. Rafferty terminated the representation and requested return of the family's legal documents. According to Ms. Rafferty, she and the Browns spent "the next several months" trying to retrieve their file from Respondent. During that time, on February 23, 2014, the statute of limitations under the slayer rule expired, which Mr. Brown learned only when he contacted Wilson's attorney personally to restart recovery efforts.

The Hearing Board concludes that these findings of fact support the People's claims I-VI by clear and convincing evidence:

- Respondent violated Colo. RPC 1.3 (Claim I), which requires a lawyer to act with reasonable diligence and promptness in representing a client. Respondent never formally pursued the estates' civil claims for funds against Wilson. She also failed to take necessary action on behalf of Amara Wells's estate. Specifically, she failed to file income taxes and failed to respond to creditor claims against her estate.

- Respondent violated Colo. RPC 1.4(a)(3) (Claim II), which requires a lawyer keep a client reasonably informed about the status of the matter. Respondent failed to communicate with Mr. Brown about the status of the probate matter and failed to keep the family informed about the status of the civil matter to recover money from Wilson.

- Respondent violated Colo. RPC 1.4(a)(4) (Claim III), which requires a lawyer to promptly comply with reasonable requests for information, by repeatedly ignoring Ms. Rafferty's inquiries about Respondent's efforts to recover money under the slayer statute.

[21] Ex. 22.
[22] Ex. 23.

- Respondent violated Colo. RPC 1.5(b) (Claim IV), which requires a lawyer who has not regularly represented a client to provide the client with a written communication stating the basis of rate of the fee and the expenses to be charged, either before or within a reasonable time after the representation begins. Although Respondent had never represented Mr. Brown, she did not provide him with any written documentation of the basis of her fee in the probate matter.

- Respondent violated Colo. RPC 3.2 (Claim V), which requires a lawyer to make reasonable efforts to expedite litigation consistent with the interests of a client, when she failed to take any formal steps to recover funds held by Wilson. She delayed the civil case despite Ms. Rafferty's urging to push aggressively for return of the money.

- Respondent violated Colo. RPC 8.4(c) (Claim VI), which provides that a lawyer commits professional misconduct by engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation. During the time she was counsel of record for Ms. Rafferty and the Browns, Respondent was repeatedly dishonest about the status of the civil case by representing that she had filed and was working on a suit against Wilson; that she had filed a motion to order the turnover of estate assets; that the court had scheduled a hearing on the motion; that she had forwarded a document about the hearing to a sheriff for service of process on Wilson; that the hearing date had been continued; and that she had requested a new setting date.

**The Conviction**[23]

On March 24, 2014, John Keil called 9-1-1 to alert the authorities that Respondent, his wife, had been attacked. She was due to pick him up at the airport that day but had never arrived, nor had she appeared for work. Mr. Keil called Respondent's employees and asked them to check in on her. According to Detective Mike Lynch, of the Westminster police department, her colleagues went to her house, forced their way in, and found her lying inside the trunk of her vehicle, which was parked inside her garage.

In the immediate wake of her discovery, Respondent was uncooperative with authorities, Detective Lynch said. At first she declined to speak with the police, she refused to provide details about the incident, and she rejected offers of medical treatment. Her husband prevailed upon her to cooperate with the investigators, and she eventually agreed to provide a statement at the police station, though she continued to refuse medical treatment or testing. At the station, Respondent reported that she had been awakened, dragged out of bed, tied up, knocked out and possibly drugged, and then stuffed inside the trunk of her car. She claimed to have been in the trunk for fifteen hours.

[23] The events described in this section are drawn from Detective Mike Lynch's testimony at the disciplinary hearing, unless otherwise noted.

Soon after Respondent was discovered, Ms. Rafferty received a telephone call from Mr. Keil, who told Ms. Rafferty that Respondent had been attacked and questioned whether the assault was somehow related to Respondent's efforts to recover money from Wilson. Ms. Rafferty informed Mr. Keil that Respondent had been terminated from the representation several months prior. Even so, she said, learning of the attack made her and the Browns feel "hysterical" and "very fearful for our lives." As she explained, they had been "living on pins and needles for years, so . . . to find out that there'd been harm done to someone that was close to us and had been representing us, yes . . . I was very frightened." Ms. Brown echoed the same sentiment: "for the years before that we'd lived in a state of panic, . . . always questioning whether or not we're safe, and for this to have happened to her, that it could be tied back to us, like all our worst nightmares came true." At the family's behest, the DOC launched an internal investigation into Chris Wells's communications to determine whether there was a link between the attack and the case.

Detective Lynch testified that several "red flags . . . jumped out" in his investigation of the alleged attack: many details Respondent provided were inconsistent and some evidence did not match up with her story. For example, when Respondent was found in the trunk, her hands were not tied, nor were there ligature marks on her wrists. Perhaps even more noteworthy, Detective Lynch said, he found a green button on the inside of the trunk that was designed to remain illuminated for thirty minutes after the trunk was closed. Pressing the button would have released the latch and opened the trunk, yet Respondent never did so, casting doubt on whether she had actually involuntarily been placed in the trunk. Ultimately, the DOC internal probe failed to turn up any communication with Chris Wells about the attack, and the authorities concluded they could neither prove nor disprove Respondent's allegations. They closed out the case a few weeks later.

Throughout April 2014, the family attempted to arrange with Respondent to pick up their legal papers. She did not respond. They finally spoke with Respondent's law partner, who agreed to meet Mr. Brown on the morning of May 5, 2014, so Mr. Brown could pick up a box of the family's documents, which had been sitting in Respondent's office for a while. Ms. Rafferty sent Respondent a text message that morning, informing her that Mr. Brown planned to stop by to collect the paperwork.

Sometime during that same day, Detective Lynch received a voicemail message from an employee in Respondent's law office, who reported that Respondent had failed to attend a court appearance and had missed a client meeting. Respondent's son also called to alert the authorities that he had been unable to contact his mother since around six that morning. Both parties were concerned that Respondent had been kidnapped. The police searched Respondent's house and neighborhood, checked her son's house, and contacted her family members and friends. They also entered her license plate number into the national computer database for missing persons.

Because he had investigated the March 24 incident, Detective Lynch was aware of Respondent's connection with Ms. Rafferty and the Browns. The detective contacted DOC personnel to request that Chris Wells's calls and emails be monitored, as he was worried that Wells might be involved in Respondent's disappearance by "manipulating somebody . . . on the outside." Detective Lynch also informed Ms. Rafferty that Respondent had been reported missing again.

After speaking with Detective Lynch, the family opened the box of documents they had just retrieved and found inside a manila envelope addressed to them, which was marked as confidential. The envelope contained a copy of Respondent's malpractice insurance policy and a letter to the family. According to Ms. Rafferty and Ms. Brown, the letter detailed numerous threats that Respondent had purportedly received since the start of their case—menacing threats that she said directed her not to perform any work for the family.[24] Aggressively pursuing the representation, Respondent explained in the letter, might have jeopardized not only her and her family but also Ms. Rafferty, her children, and the Browns. Ms. Brown said that the letter alleged that Respondent, Ms. Rafferty, the Browns, and their families had all been followed and photographed at home and at work.

As with the March 2014 incident, the family received this news with horror. Ms. Brown described feeling "broken," because all of her "worst fears had come true." "For two years leading up to that, we'd fought just to be normal again," she said. "All of a sudden to have that fear placed back into your life, it's like the wound was ripped off." Ms. Rafferty said simply, "I was scared to death when I read the letter." Both women testified that Respondent had never mentioned these threats to them or to law enforcement, even though she had ample opportunity to do so.

Overnight on May 5, 2014, authorities awaited additional developments. In the early morning hours of May 6, a crime team drawn from Westminster, where Respondent lived, and Aurora, where Respondent practiced law, launched a joint investigation. Respondent's house was processed as a possible crime scene, and her office computers were searched. The crime team released information to adjoining agencies and issued a press release with a description of Respondent and her vehicle to all major news channels in Colorado. All told, Detective Lynch said, officers and detectives spent hundreds of hours working this "high-profile case."

Shortly after the close of business on May 6, two of Respondent's employees spotted her vehicle in Aurora. They followed the vehicle into a parking lot, pulled up nearby, and called 9-1-1, fearing that Respondent's kidnapper was in the car. After several minutes had passed, the employees realized that Respondent was alone. They approached the car and knocked on the window. Respondent looked startled but rolled down her window. The employees asked her what had happened, and she replied that she had been kidnapped

[24] The letter was not introduced as evidence at the disciplinary hearing.

again. Just then, police cars descended on the lot. Respondent looked at her employees with astonishment and asked them why they had called the police.

During Detective Lynch's extensive interview with Respondent, she gave him the following account of her alleged kidnapping. She said that she spent the night of May 4, 2014, at her son's house but left early the next morning, wearing jeans and a tee-shirt. She stopped by the dry cleaner's around 7:30 a.m. and then drove to her house to change into work clothes. Around 8:15 a.m., as she was leaving her house, a man wearing a stocking cap, jeans, and a short-sleeved shirt grabbed her at gunpoint. He shoved her into the driver's seat of the vehicle, hopped into the backseat, took her cell phone away, and ordered her to drive to Colorado Springs. There, he directed her to back into a parking space in a covered garage, where they remained, sitting in silence. Several hours later, he commanded her to drive again, this time toward Breckenridge over Hoosier Pass. At some point, the man instructed her to pull over, and he tied her hands to the metal connector under the back of the driver's seat. Another car pulled up. She heard two men talking, and then the other car drove off. Terrified, she said, she managed to get out of the bindings, find a spare set of keys in her briefcase, and drive away. She changed her clothes and headed back to Denver, where she drove around until the following day, passing near her son's house to make sure he was safe. During the time she was abducted, she said, she and the kidnapper did not make any stops other than those she had described, and she was never given an opportunity to get out of the vehicle, either to eat or to use the restroom.

Detective Lynch characterized Respondent's story as "bizarre," "incredible to believe," and riddled with "numerous inconsistencies." Nevertheless, he said, he tried to keep an open mind in order to investigate her claims more thoroughly. He and his colleagues, however, ultimately concluded that Respondent had "lied" about both the March and the May incidents.

They reached that conclusion after uncovering, among other things, certain evidence relevant to the May incident: 1) a May 5 security video from the dry cleaner's store, time-stamped around 8:30 a.m., showing Respondent wearing a suit; 2) a May 5 receipt found in Respondent's vehicle for a bottle of water purchased from the Wal-Mart in Evergreen, Colorado; 3) a May 5 security video from the same Wal-Mart store, time-stamped around 10:00 a.m., showing Respondent entering the store alone; 4) a May 5 security video from a Colorado Springs covered parking garage, showing Respondent in her vehicle, alone, driving into the garage; 5) a coat of dust on the metal connectors under the driver's and passenger's seats in Respondent's vehicle, which was suggestive that nothing had been tied to those seats in the recent past; 6) no ties, ropes, or other materials were found in Respondent's vehicle that could have been used to bind her hands; 7) Respondent's uncertainty about her alleged abductor's skin color, even though she had earlier stated that he was wearing a short-sleeved shirt; 8) Respondent's statement that she and her kidnapper made no stops—presumably even for fuel—even though their purported route stretched for more than 300 miles. Detective Lynch and his team also listened to all of Chris Wells's telephone calls recorded during the year prior and looked at all of his mail for the same

timeframe. They found nothing in those records that implicated Chris Wells in Respondent's disappearance. Nor could they substantiate any of the alleged threats Respondent reported in her letter to Ms. Rafferty and the Browns.

Detective Lynch presented a case for criminal charges against Respondent. She was charged in Adams County District Court with two class-three misdemeanor counts of false reporting to authorities in violation of C.R.S. section 18-8-111(1)(c), charges premised on the March 2014 and May 2014 incidents, respectively. She was also charged with one class-four felony count of attempting to influence a public servant in violation of C.R.S. section 18-8-306, a charge premised on the May 2014 incident. On January 7, 2016, following a week-long trial, a jury found her guilty of attempting to influence a public servant and of one count of false reporting to authorities based on the May 2014 incident.[25] She was sentenced to two years' probation, mental health evaluation and treatment, and eighty hours of community service.[26] In addition, she was assessed $1,701.50 in costs.[27]

The People allege in their Claim VII that Respondent's conduct underlying her criminal conviction violated Colo. RPC 8.4(b). That rule states it is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects.[28] The Hearing Board has no trouble concluding that Respondent's criminal conduct reflects adversely on her honesty, trustworthiness, and fitness to practice law, as her crimes were ones of mendacity that interfered with the legal system. We thus find that she violated Colo. RPC 8.4(b).

## III. SANCTIONS

The American Bar Association *Standards for Imposing Lawyer Sanctions* ("ABA *Standards*")[29] and Colorado Supreme Court case law guide the imposition of sanctions for lawyer misconduct.[30] When imposing a sanction after a finding of lawyer misconduct, a hearing board must consider the duty violated, the lawyer's mental state, and the actual or potential injury caused by the lawyer's misconduct. These three variables yield a presumptive sanction that may be adjusted based on aggravating and mitigating factors.

### ABA *Standard* 3.0 – Duty, Mental State, and Injury

*Duty*: As her clients' legal representative and advocate, Respondent owed to them a duty to act with diligence, communication, and candor, consistent with their interests and wishes. Respondent breached this duty by betraying their trust and abandoning their legal

[25] Ex. 25.
[26] Ex. 25.
[27] Ex. 25.
[28] Claim VII is also premised on C.R.C.P. 251.5(b), which provides that "[a]ny criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects" constitutes grounds for discipline. Respondent's conduct violated this rule as well.
[29] Found in ABA *Annotated Standards for Imposing Lawyer Sanctions* (2015).
[30] *See In re Roose,* 69 P.3d 43, 46-47 (Colo. 2003).

matters. As an officer of the court, Respondent owed to the public a duty to maintain her personal integrity. Respondent flouted those duties by twice staging phony abductions, undermining public confidence in lawyers and the legal profession.

*Mental State*: We conclude that Respondent knowingly failed to act with diligence, knowingly failed to keep her clients reasonably informed, knowingly failed to promptly comply with their reasonable requests for information, and knowingly failed to expedite their litigation. We conclude that Respondent negligently failed to provide Mr. Brown with a written explanation of her fees in the probate matter. Finally, we conclude that Respondent intentionally deceived her clients and intentionally engaged in criminal conduct that reflects adversely on her honesty, trustworthiness, and fitness to practice law.

*Injury*: Respondent's failure to take any formal action to seek the return of Amara Wells's marital assets from Wilson, coupled with Respondent's many misrepresentations about her efforts to recover those funds, caused the family very serious financial injury. Respondent's dereliction resulted in the expiry of the three-year statute of limitations for recovery of those marital assets. As such, Ms. Rafferty and the Browns were barred from seeking return of the $75,000.00 held by Wilson, and Amara Wells's daughter was deprived of use of that money, which, as Ms. Brown noted, could have defrayed costs for the child's therapy and education. Respondent's failure to take any formal action to recover those assets also continues to cause the family serious potential harm, as those funds may remain at Wells's disposal. As Ms Rafferty explained, "there [i]s no limit to what harm [Wells] could do" with that money.

By far the greatest harm that Respondent caused in this tragedy, however, is the serious emotional trauma to which she subjected Ms. Rafferty and the Browns. Rafferty explained that after losing her husband and sister-in-law in a murder for hire, she has "never truly [felt] safe." Respondent, once Ms. Rafferty's good friend, senselessly revictimized the family by abandoning them in a legal matter that Ms. Rafferty believed was essential to preserving their safety. And Respondent callously preyed upon their worst fears by fabricating stories of threats and abduction, apparently to justify her own inaction in their legal case.

Finally, Respondent's two sham disappearances needlessly squandered hundreds of hours of police, paramedic, and other emergency personnel time—resources that could have been directed elsewhere. She wasted thousands of dollars in taxpayers' money, which paid for overtime hours spent working her bogus cases. This abuse of law enforcement services damaged the reputation of the legal profession and its members.

**ABA *Standards* 4.0-7.0 – Presumptive Sanction**

The presumptive sanction in this case is established by ABA *Standard* 5.11(a), which calls for disbarment when a lawyer engages in serious criminal conduct, a necessary element of which includes false swearing or misrepresentation. Disbarment is also the presumptive sanction under ABA *Standard* 4.61, which generally applies when a lawyer knowingly

deceives a client with the intent to benefit the lawyer or another, causing a client serious or potentially serious injury.[31]

**ABA *Standard* 9.0 – Aggravating and Mitigating Factors**

Aggravating circumstances include any considerations that may justify an increase in the degree of the sanction to be imposed, while mitigating circumstances include any factors that may warrant a reduction in the severity of the sanction.[32] We apply seven aggravating factors, many of which we weigh heavily. Because Respondent declined to attend the hearing, we are aware of just two mitigating factors, one of which we find relatively inconsequential.

*Dishonest or Selfish Motive – 9.22(b)*: Respondent acted both selfishly and dishonestly in the matters before us. For more than two years she failed to take any meaningful action on behalf of Ms. Rafferty and the Browns, yet she continued to decline Ms. Rafferty's invitations to withdraw from the representation. During most of that time she deceived her clients about the status of their matter, going so far as to invent fictitious hearing dates and court orders to spin her narrative. Then, misleading law enforcement personnel, she concocted two elaborate kidnapping hoaxes as support for her unsubstantiated claims that she was in danger, seemingly to justify her failure to take any action on her clients' matter. We view this as a serious aggravating consideration.

*A Pattern of Misconduct – 9.22(c)*: Respondent's repeated misrepresentations to her clients constitute a pattern of misconduct, which we deem a significant aggravating factor.

*Multiple Offenses – 9.22(d)*: Respondent failed to act with diligence, failed to communicate with her clients, exhibited a pattern of dishonesty, and engaged in criminal conduct. This, too, we consider a substantial aggravator.

*Refusal to Acknowledge Wrongful Nature of Conduct – 9.22(g)*: We received no evidence to suggest that Respondent ever took responsibility for abandoning or deceiving her clients. To the contrary, we heard evidence that Respondent twice feigned abductions to deflect attention from her neglect. It is no coincidence that she faked her last disappearance on the same day her clients were due to retrieve their legal documents and thus, presumably, on the day they might discover that the statute of limitations to recover money from Wilson had already expired. Taken in conjunction with Respondent's decision not to participate at the hearing, we have no trouble concluding that this aggravating factor should be weighed heavily in the sanctions analysis.

*Vulnerability of Victims – 9.22(h)*: Ms. Rafferty and the Browns lost loved ones in a horrifying, violent attack. Because they were grief- and terror-stricken, and because

[31] Though ABA *Standard* 4.42 also applies in light of Respondent's lack of diligence and communication, we focus on the most serious misconduct at issue here, which drives our sanctions analysis.
[32] *See* ABA *Standards* 9.21 & 9.31.

Ms. Rafferty turned to Respondent as a trusted friend, we accord this factor great weight in aggravation.

*Substantial Experience in the Practice of Law – 9.22(i)*: Respondent was admitted to the bar in 1999 and has practiced law since that time, so we consider her substantial experience as a lawyer an aggravating factor.

*Illegal Conduct – 9.22(k)*: A jury found Respondent guilty of attempting to influence a public servant—a felony—and false reporting to authorities—a misdemeanor. This criminal conduct is properly considered a factor in aggravation.

*Absence of Prior Disciplinary Record – 9.32(a)*: Respondent has not been subject to discipline since she was admitted to the bar, a mitigating factor here.

*Imposition of Other Penalties or Sanctions – 9.32(k)*: Respondent's criminal conviction carried with it a sentence of two years' probation, community service, and costs—penalties that do not seem particularly onerous to us in light of the factual circumstances involved. Further, those other penalties were levied only for Respondent's criminal conduct, not for her lack of diligence and communication or for her pattern of deceit during the underlying representation. We thus accord this factor relatively little mitigating credit.

**Analysis Under ABA *Standards* and Case Law**

The Colorado Supreme Court has directed hearing board members to exercise discretion in imposing a sanction and to carefully apply aggravating and mitigating factors.[33] We are mindful that "individual circumstances make extremely problematic any meaningful comparison of discipline ultimately imposed in different cases."[34] Though prior cases are helpful by way of analogy, hearing boards must determine the appropriate sanction for a lawyer's misconduct on a case-by-case basis.

As noted above, disbarment is the presumptive form of discipline here. We see no cause to depart from that sanction after considering the surfeit of serious aggravating factors in this case. Further, while Colorado jurisprudence has not addressed a situation factually analogous to this one, the limited case law available supports disbarment; other attorneys have lost their law licenses in this state based on their felony convictions for conduct involving deceit or misrepresentation.[35] These authorities, then, all suggest that

[33] *See In re Attorney F.*, 285 P.3d 322, 327 (Colo. 2012); *In re Fischer*, 89 P.3d 817, 822 (Colo. 2004) (finding that a hearing board had overemphasized the presumptive sanction and undervalued the importance of mitigating factors in determining the needs of the public).

[34] *Attorney F.*, 285 P.3d at 327 (quoting *In re Rosen*, 198 P.3d 116, 121 (Colo. 2008)).

[35] *See People v. Goldstein*, 887 P.2d 634, 643 (Colo. 1994) (disbarring an attorney based on his felony offense of forging a federal bankruptcy court judge's signature as well as his dishonest and deceitful behavior while handling two legal matters); *People v. Viar*, 848 P.2d 934, 936 (Colo. 1993) (disbarring an attorney following his conviction for bribery, a class-three felony, despite the lawyer's clean disciplinary record).

disbarment is the appropriate sanction in this matter, and we adopt that sanction as condign discipline.

Our disbarment decision is based on the analytical framework set out above. But we wish to add that it is also anchored by our moral outrage: that an advocate would effectively desert her frightened clients, leading to the extinguishment of their claim; that a lawyer would time and again deceive those clients about the course of their matter, despite their offers to find other counsel; that a friend and former attorney would exploit her clients' fears by casting her neglect as a noble effort to protect them; that an officer of the court would attempt to explain away her inaction by twice faking her own kidnapping, thereby diverting emergency personnel and wasting law enforcement resources. We cannot conceive of any sanction other than disbarment that adequately answers this conduct. Accordingly, we conclude that Respondent should be disbarred.

## IV. CONCLUSION

The People remarked in their opening statement that the facts of this case could have been lifted straight from a movie script. An attorney steps in to help grieving family friends with a legal matter in the wake of a terrifying tragedy. The attorney fails to perform any meaningful work and deceives her friends about her efforts. To cover up her neglect, the attorney stages bogus abductions—twice. But this story did not play out on a screen or stage; it was a narrative written and orchestrated by Respondent that had real, lasting effects on her friends and clients. Her conduct violated the criminal laws of Colorado, lawyers' rules of professional ethics, and basic principles of decency. We do not hesitate to disbar her.

## V. ORDER

The Hearing Board therefore **ORDERS**:

1. **BECKY L. KEIL**, attorney registration number **31039**, is **DISBARRED**. The disbarment will take effect upon issuance of an "Order and Notice of Disbarment."[36]

2. To the extent applicable, Respondent **SHALL** promptly comply with C.R.C.P. 251.28(a)-(c), concerning winding up of affairs, notice to parties in pending matters, and notice to parties in litigation.

3. Within fourteen days of issuance of the "Order and Notice of Disbarment," Respondent **SHALL** comply with C.R.C.P. 251.28(d), requiring an attorney to file an affidavit with the PDJ setting forth pending matters and attesting, *inter alia*, to notification of clients and other jurisdictions where the attorney is licensed.

[36] In general, an order and notice of sanction will issue thirty-five days after a decision is entered pursuant to C.R.C.P. 251.19(b) or (c). In some instances, the order and notice may issue later than thirty-five days by operation of C.R.C.P. 251.27(h), C.R.C.P. 59, or other applicable rules.

4. The parties **MUST** file any posthearing motion or application for stay pending appeal with the Hearing Board **on or before 21 days**. Any response thereto **MUST** be filed within seven days.

5. Respondent **SHALL** pay the costs of these proceedings. The People **SHALL** submit a statement of costs **on or before 14 days**. Any response thereto **MUST** be filed within seven days.

DATED THIS 27TH DAY OF SEPTEMBER, 2016.

*Original Signature on File*
WILLIAM R. LUCERO
PRESIDING DISCIPLINARY JUDGE

*Original Signature on File*
R. GREGORY GREER
HEARING BOARD MEMBER

*Original Signature on File*
JAMES X. QUINN
HEARING BOARD MEMBER

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| Christopher T. Ryan<br>Colorado Supreme Court | Via Hand Delivery |