

People v. Seth Weiss. 16PDJ063. March 7, 2017.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Seth Weiss (attorney registration number 24837) from the practice of law for three years. The suspension took effect March 7, 2017. To be reinstated, Weiss will bear the burden of proving by clear and convincing evidence that he has been rehabilitated, has complied with disciplinary orders and rules, and is fit to practice law. Before petitioning for reinstatement, Weiss must comply with all orders in his civil matter, including full satisfaction of the judgment entered against him in that matter.

Weiss was a co-founder of Genie Lens Technology, LLC, a company formed to research, develop, and manufacture various intellectual property patents. In 2006, Genie Lens made its initial offering of units. Thereafter, Genie Lens offered two-year and three-year notes to investors. Genie Lens did not register the two- and three-year notes with the Colorado Division of Securities, even though the notes were securities.

Between 2009 and 2011, Genie Lens sent investors and potential investors multiple financial statements under Weiss's signature that contained inaccurate information about Genie Lens's cash position. Then, during a March 2012 recorded investor presentation, he made a gross misstatement about the amount of cash the company had "on hand." In February 2014, the Colorado Securities Commissioner filed a complaint against Weiss for injunctive and other relief.

After trial, the Denver District Court concluded, among other things, that: Weiss made an offer of sale of unregistered securities in violation of Colorado law; Weiss engaged in securities fraud by making materially false statements and omissions related to Genie Lens's cash balances; Weiss used false statements about Genie Lens's cash position—and omitted mention of the true state of the company's cash position—in connection with the offer and sale of the two- and three-year promissory notes; and Weiss's false statements and omissions constituted fraud and deceit.

The district court found that the notes, which collectively raised \$13,296,002.00, were offered and sold to investors while Weiss provided overstated balance sheets and without telling investors the actual cash balances of the company. The court entered a \$13,296,002.00 judgment against Weiss for disgorgement, restitution, and damages.

Through his conduct in this matter, Weiss violated Colo. RPC 8.4(c) (it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation).