

People v. Beasley. 10PDJ083. March 9, 2011. Attorney Regulation. Following a sanctions hearing, the Presiding Disciplinary Judge disbarred Patrick Dennis Beasley (Attorney Registration No. 25637), effective April 9, 2011. Respondent failed to communicate with, neglected, and ultimately abandoned nine clients. He also knowingly converted funds from eight clients. His misconduct constituted grounds for the imposition of discipline pursuant to C.R.C.P. 251.5 and violated Colo. RPC 1.3, 1.4(a), 8.4(c), 1.15(a), and 1.15(j).

SUPREME COURT, STATE OF COLORADO ORIGINAL PROCEEDING IN DISCIPLINE BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1560 BROADWAY, SUITE 675 DENVER, CO 80202	
Complainant: THE PEOPLE OF THE STATE OF COLORADO Respondent: PATRICK DENNIS BEASLEY	Case Number: 10PDJ083
DECISION AND ORDER IMPOSING SANCTIONS PURSUANT TO C.R.C.P. 251.19(c)	

On January 20, 2011, the Presiding Disciplinary Judge (“the Court”) held a sanctions hearing pursuant to C.R.C.P. 251.15(c). Alan Obye and Elizabeth E. Krupa appeared on behalf of the Office of Attorney Regulation Counsel (“the People”). Patrick Dennis Beasley (“Respondent”) did not appear, nor did counsel appear on his behalf. The Court now issues the following “Decision and Order Imposing Sanctions Pursuant to C.R.C.P. 251.19(c).”

I. SUMMARY

Disbarment is generally the appropriate sanction when a lawyer knowingly converts client funds and abandons clients. Respondent failed to communicate with, neglected, and ultimately abandoned nine clients. He also knowingly converted funds from eight clients.

Respondent has not participated in the disciplinary proceedings brought against him, and the Court is unaware of any factors that mitigate his conduct. After considering the nature of Respondent’s misconduct and its consequences, the aggravating factors, and the absence of countervailing mitigating factors, the Court finds the appropriate sanction is disbarment.

II. PROCEDURAL HISTORY

On December 4, 2009, the People petitioned the Colorado Supreme Court to immediately suspend Respondent pursuant to C.R.C.P. 251.8.6. Respondent did not respond. The Colorado Supreme Court immediately suspended Respondent on December 21, 2009.

On August 3, 2010, the People filed a complaint alleging that Respondent had violated Colo. RPC 1.3, 1.4(a), 8.4(c), 1.15(a), and 1.15(j). Respondent failed to answer the complaint, and the Court granted a motion for default on October 21, 2010. Upon the entry of default, the Court deems all facts set forth in the complaint admitted and all rule violations established by clear and convincing evidence.¹

III. ESTABLISHED FACTS AND RULE VIOLATIONS

The Court hereby adopts and incorporates by reference the factual background of this case as detailed in the admitted complaint. Respondent took and subscribed to the oath of admission and gained admission to the bar of the Colorado Supreme Court on June 8, 1995. He is registered upon the official records under attorney registration number 25637, and is therefore subject to the jurisdiction of the Court pursuant to C.R.C.P. 251.1.

The Millan Matter

Gloria Millan (“Millan”) retained MaryLu Cianciolo (“Cianciolo”) to help obtain residency for Millan’s husband, Rigoverto Tinajero Tamayo. Millan paid Cianciolo \$595.00 for her services. Cianciolo then sold her law practice to Respondent in July 2007 and moved to Chicago. Respondent agreed to assume responsibility for Cianciolo’s existing clients.

Millan entered into a new fee agreement with Respondent to finish the consular processing for her husband. Millan and Respondent first discussed this matter in May 2008. At the end of 2008, Respondent sent documents concerning Millan’s matter to the National Visa Center (“NVC”). In March 2009, after the NVC provided notification that it lacked certain documents, Millan provided the missing documents to Respondent, and his office apparently forwarded them to the NVC. Also in March 2009, Millan paid Respondent \$1,000.00 to complete the consular processing.

Millan last met with Respondent on August 19, 2009, at which time Respondent told Millan he would “correct her papers.” On the same date, he requested the status of her application from the NVC and formally entered his appearance in Millan’s matter with the federal immigration services department. A September 4, 2009, letter from the NVC informed Respondent that information was still missing from Millan’s application.

On or about September 14, 2009, Millan’s sister-in-law, who also was a client of Respondent, told Millan that she had been unsuccessful in her attempts to contact Respondent. Millan then tried to call Respondent’s office,

¹ See *People v. Richards*, 748 P.2d 341, 346 (Colo. 1987); C.R.C.P. 251.15(b).

but he did not answer and his voicemail box was full. She called Respondent's cell phone, but it transferred directly to voicemail. When Millan visited Respondent's office, no one was present. Millan attempted without success to call Respondent every day for approximately one month.

When Respondent did not appear for her sister-in-law's court date on October 9, 2009, Millan contacted another attorney. That attorney also tried in vain to contact Respondent.

Respondent never completed the work Millan hired him to perform, he never communicated with Millan after August 2009, and he never refunded her \$1,000.00 payment. Through this conduct, Respondent abandoned the duties he owed to his client and violated Colo. RPC 1.3, 1.4(a), and 8.4(c).

The Collado/Diaz Matter

Michelle Collado Diaz ("Collado") and her husband, Domingo Collado Diaz ("Diaz"), retained Respondent on February 13, 2009. Diaz had been arrested for driving under the influence and was in immigration removal proceedings. Collado, Diaz, and Respondent agreed that Respondent would defend the removal proceedings in court, prepare a Form I-130 relative petition, represent Diaz in the interview concerning that petition, complete consular processing, and prepare a hardship waiver on Form I-601. In exchange, Collado and Diaz agreed to give Respondent a flat fee of \$6,890.00, to be paid through an initial \$1,000.00 deposit and monthly payments of \$400.00 beginning on April 1, 2009. Collado and Diaz paid a total of \$4,155.00 to Respondent, including a \$355.00 filing fee.

A master hearing in Diaz's removal proceeding was set for April 8, 2009. Collado and Diaz attended, but Respondent did not appear. The judge provided Diaz an extension, setting the matter for November 18, 2009. Collado called Respondent's office and cell phone multiple times on April 8, 2009, but she could not reach him. Later that day, she reached someone at Respondent's office, who informed her he was ill. Respondent also sent Collado a text message telling her he was "very sick" but "it will all work out."

In May and June 2009, Collado communicated with Respondent and his office several times, and sent him documents he needed. She did not speak with Respondent after June 2009, though she did communicate with his staff to check on the status of her husband's matter and to ensure they had received the monthly payments.

On October 3, 2009, Collado emailed Respondent, seeking to discuss their upcoming hearing. She also sent him a payment two days later. By October 6, 2009, Collado had not received a response to her email. She called

Respondent's office but could not leave a message because the voicemail box was full. Collado continued to call and email Respondent without success.

On October 16, 2009, Collado went to Respondent's office and saw a note posted on the door by another client, which stated that Respondent was stealing client money. Collado left Respondent a message later that day, in which she asked Respondent to call her, but he failed to do so.

Collado testified that she and Diaz did not hire another attorney because they could not afford to do so. Respondent did not appear at Diaz's hearing on November 18, 2009. At the hearing, Diaz was granted voluntary departure in lieu of removal, and he subsequently returned to Mexico. Collado testified that she cannot afford to file paperwork seeking permission for Diaz to return to the United States.

Respondent never refunded the money she and Diaz paid to him. Through his conduct with respect to Collado and Diaz, Respondent abandoned his professional duties and violated Colo. RPC 1.3, 1.4(a), and 8.4(c).

Other Client Matters

The lengthy complaint in this matter establishes that Respondent committed numerous other rule violations similar to those discussed above. Details regarding these rule violations can be found in the People's complaint, which is incorporated by reference. A brief summary of Respondent's other misconduct follows:

- Respondent agreed to renew annual work permits for Patsy Esparza's brother-in-law and his wife so they could work on Patsy Esparza's ranch. Respondent violated Colo. RPC 1.3 and 1.4(a) by failing to act with reasonable diligence and promptness in this matter and by failing to adequately communicate with his clients.
- Maria Flores and her husband, Jose Soto, paid Respondent a total of \$2,890.00 to complete consular processing for Maria Flores and her son. Respondent neglected to complete the processing, failed to keep his clients informed about the matter, and converted unearned legal fees, thereby violating Colo. RPC 1.3, 1.4(a), and 8.4(c).
- Patricia Siqueiros and Raul Rojas hired Respondent to represent them in an immigration matter in which Patricia Siqueiros faced deportation. They paid Respondent a total of \$4,995.00. Respondent failed to act with reasonable diligence and promptness in this matter, failed to communicate with his clients about the case, and converted unearned legal fees, in violation of Colo. RPC 1.3, 1.4(a), and 8.4(c).
- Rick and Ana Hodgson paid Respondent \$850.00 to provide naturalization services. Respondent failed to complete the naturalization services, neglected to keep the Hodgsons informed

- about their matter, and converted unearned legal fees, thereby violating Colo. RPC 1.3, 1.4(a), and 8.4(c).
- Respondent agreed to provide naturalization services to Inocente Gomez in exchange for a legal fee of \$995.00. Respondent violated Colo. RPC 1.3, 1.4(a), and 8.4(c) by neglecting the matter, failing to communicate with his client, and converting unearned legal fees.
 - Francisco Paredes paid Respondent \$1,775.00 to obtain visas for his three children. Respondent failed to perform that work, failed to keep his client updated regarding the status of the matter, and converted unearned legal fees, thereby violating Colo. RPC 1.3, 1.4(a), and 8.4(c).
 - Karlita and Sergio Cornejo retained Respondent to represent Sergio Cornejo in a removal matter. They paid him \$850.00 in legal fees. Respondent neglected this matter, failed to provide adequate communication, and converted unearned legal fees, in violation of Colo. RPC 1.3, 1.4(a), and 8.4(c).
 - By overdrawing his COLTAF account and exercising unauthorized dominion or ownership over funds in that account, Respondent violated Colo. RPC 1.15(a).
 - By failing to maintain trust account records, client fee agreements, copies of bills issued to clients, and other records, Respondent violated Colo. RPC 1.15(j).

At the sanctions hearing, the former administrator of the Attorneys' Fund for Client Protection testified that the fund had paid \$13,241.25 in claims to the eight clients from whom Respondent converted funds.

IV. SANCTIONS

The ABA Standards for Imposing Lawyer Sanctions (“ABA *Standards*”) and Colorado Supreme Court case law are the guiding authorities for selecting and imposing sanctions for lawyer misconduct.² In selecting a sanction after a finding of lawyer misconduct, the Court must consider the duty violated; the lawyer’s mental state; the actual or potential injury caused by the lawyer’s misconduct; and the existence of aggravating and mitigating evidence pursuant to ABA *Standard* 3.0.

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

Duty: Respondent violated duties he owed to his clients by neglecting their matters, failing to communicate with them, and converting their funds.³

Mental State: With respect to Respondent’s lack of diligent representation and lack of communication pursuant to Colo. RPC 1.3 and 1.4(a), the

² See *In re Roose*, 69 P.3d 43, 46-47 (Colo. 2003).

³ See ABA *Standard* 4.0.

complaint establishes that Respondent knew or should have known that he was not fulfilling his professional responsibilities. The complaint also establishes that Respondent knowingly converted client funds in violation of Colo. RPC 8.4(c).

Injury: Respondent injured his clients by depriving them of funds belonging to them. His failure to appear at hearings or otherwise fulfill his obligation to diligently represent his clients caused potentially serious injury, because his clients were denied a fair chance to participate in court proceedings affecting their lawful status in the United States. As an example of the injury Respondent caused, Millan testified that Respondent's neglect of her case delayed her husband's proceeding, which caused them stress and led them to distrust lawyers; in addition, they suffered the financial harm of having to hire a second lawyer to complete the legal process.

ABA Standard 3.0 – Aggravating & Mitigating Factors

Aggravating circumstances include any considerations or factors that may justify an increase in the degree of discipline to be imposed.⁴ Mitigating circumstances include any considerations or factors that may justify a reduction in the degree of discipline to be imposed.⁵ In this case, Respondent has not participated in the disciplinary proceedings, and the Court is aware of no mitigating circumstances. The Court considered evidence of the following aggravating circumstances in deciding the appropriate sanction.

Prior Disciplinary Offenses – 9.22(a): Respondent was suspended for a year and a day in 2010 for violating Colo. RPC 1.3, 1.4(a)(3), 1.15(a), 5.3(b), and 8.4(c). Since the conduct at issue in the prior disciplinary matter primarily occurred in 2008, while the conduct at issue in the matters addressed here primarily occurred in 2009, we consider the suspension as a prior disciplinary offense, rather than as a pattern of misconduct.⁶

Multiple Offenses – 9.22(d): Respondent violated five distinct Rules of Professional Conduct in the matters addressed here, and he violated several of those rules on numerous occasions.

Substantial Experience in the Practice of Law – 9.22(i): Respondent was admitted to the bar in 1995; he thus has considerable experience practicing law.

Indifference to Making Restitution – 9.22(j): Respondent has not returned any of the funds he converted from clients.

⁴ See ABA Standard 9.21.

⁵ See ABA Standard 9.31.

⁶ See *People v. Sather*, 936 P.2d 576, 579 (Colo. 1997).

Analysis Under ABA Standards and Colorado Case Law

The ABA *Standards* most applicable to this matter are ABA *Standards* 4.41 and 4.11. ABA *Standard* 4.41 provides that disbarment is generally appropriate when a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client; or abandons the practice and causes serious or potentially serious injury to a client. Likewise, ABA *Standard* 4.11 provides that disbarment is typically warranted when a lawyer knowingly converts client property and thereby causes injury or potential injury.⁷

The ABA *Standards* further provide that, in cases involving multiple charges of misconduct, “[t]he ultimate sanction imposed should at least be consistent with the sanction for the most serious instance of misconduct among a number of violations; it might well be and generally should be greater than the sanction for the most serious misconduct.”⁸

The Colorado Supreme Court has held that, except where significant mitigating factors apply, disbarment is the appropriate sanction for knowing conversion of client funds in violation of Colo. RPC 8.4(c).⁹ Where a lawyer’s conversion of client funds is coupled with abandonment of the client, it is all the more clear that disbarment is appropriate.¹⁰

Given the numerous instances of abandonment and conversion in this matter and the lack of mitigating factors, disbarment is clearly the appropriate sanction under the ABA *Standards* and Colorado case law.

⁷ Although Appendix 1 of the ABA *Standards* indicates that the standards applicable to violations of Colo. RPC 8.4(c) are ABA *Standards* 4.6 and 5.1, the Court determines that ABA *Standard* 4.1 is more relevant to this type of violation of Colo. RPC 8.4(c), because that standard specifically addresses conversion.

⁸ See ABA *Standards* § II at 7.

⁹ *In re Haines*, 177 P.3d 1239, 1250 (Colo. 2008); *In re Cleland*, 2 P.3d 700, 703 (Colo. 2000) (holding that the presumed sanction for knowing misappropriation of client funds is disbarment); see also *People v. Varallo*, 913 P.2d 1, 10-11 (Colo. 1996) (holding that the presumed sanction for knowing conversion of client funds is disbarment, regardless of whether the lawyer intended to permanently deprive the client of those funds); cf. *In re Fischer*, 89 P.3d 817, 822 (Colo. 2004) (noting that mitigating factors may warrant a departure from a presumption of disbarment in some cases).

¹⁰ See *In re Stevenson*, 979 P.2d 1043, 1043-44 (Colo. 1999) (disbarring an attorney who abandoned a client and converted her funds); *People v. Roybal*, 949 P.2d 993, 998 (Colo. 1997) (stating that disbarment is “appropriate when a lawyer effectively abandons his clients and thereby misappropriates unearned attorney fees”).

V. CONCLUSION

Respondent abdicated his professional responsibilities in his representation of multiple clients. Respondent's failure to respond to his clients in the face of their persistent efforts to contact him, his outright abandonment of their cases, and his continuing failure to return funds that are not rightfully his reflect very poorly on the legal profession. In light of the serious nature of Respondent's misconduct and the need to protect the public from future such misconduct, the Court concludes Respondent should be disbarred.

VI. ORDER

The Court therefore **ORDERS**:

1. Patrick Dennis Beasley, Attorney Registration No. 25637, is **DISBARRED** from the practice of law. The disbarment **SHALL** become effective thirty-one days from the date of this order upon the issuance of an "Order and Notice of Disbarment" by the Court and in the absence of a stay pending appeal pursuant to C.R.C.P. 251.27(h).
2. Respondent **SHALL** file any post-hearing motion or application for stay pending appeal with the Court **on or before March 29, 2011**. No extensions of time will be granted.
3. Respondent **SHALL** pay the costs of these proceedings. The People shall submit a "Statement of Costs" within fifteen (15) days of the date of this order. Respondent shall have ten (10) days within which to respond.

DATED THIS 9th DAY OF MARCH, 2011.

WILLIAM R. LUCERO
PRESIDING DISCIPLINARY JUDGE

