

People v. Rivera, No. 01PDJ092, consolidated with No. 02PDJ004,
6.11.02. Attorney Regulation.

The Presiding Disciplinary Judge approved the parties' Conditional Admission of Misconduct and suspended Respondent, Jennifer A. Rivera, attorney registration number 13439, from the practice of law for a period of two years, all stayed during a two-year period of probation subject to conditions. Respondent utilized a fee agreement which contained language stating that fees paid to her were not refundable and would not be considered as flat fees if the client did not desire continued representation. The fee agreement also contained language stating that the funds tendered by the clients would be deposited into respondent's trust account and would remain in trust to be applied against the final billing. With regard to five clients, respondent entered into fee agreements containing the language set forth above, accepted advance retainers from the clients, and deposited the funds into her operating account rather than her trust account. In one matter, respondent earned the full amount of the retainer she received from the client, and kept the unearned portion of the retainer in her operating account. In three other matters, respondent never earned the full amount of the retainers. In another matter, the client terminated the respondent's representation and respondent did not immediately refund the unearned portion of his retainer when demanded. Respondent failed to keep the funds of her clients separate from her own property, in violation of Colo. RPC 1.15(a). Respondent negligently and temporarily misappropriated funds belonging to her clients, mistakenly relying upon the non-refundable provisions of her fee agreements in violation of Colo. RPC 8.4(c) and Colo. RPC 8.4(h). Respondent's fee agreements contained the false statements that the clients' advance retainers would be deposited into her trust account and remain there until applied toward the final billing, and that the fees were non-refundable, constituting violations of Colo. RPC 8.4(c). Respondent was ordered to pay the costs of the disciplinary proceeding.