

People v. John William Tinder. 14PDJ032. April 10, 2014.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended John William Tinder (Attorney Registration Number 39915) for six months, all stayed upon the successful completion of a two-year period of probation with conditions. The probation took effect May 15, 2014.

In 2012 and 2013, Tinder represented a client in a bankruptcy proceeding. The bankruptcy court approved a settlement on August 1, 2013, and Tinder's client agreed to pay the trustee \$150,000.00 in two payments. The first payment of \$105,000.00 was payable on August 8, 2013. That payment was not timely made. On August 30, 2013, the date by which counsel for the trustee had warned Tinder that he would file an objection to Tinder's client discharge, Tinder left counsel for the trustee a voicemail indicating that he had deposited the settlement funds into his COLTAF account but was running late and might not deliver the settlement check to his office until after 5:00 p.m. Tinder did not deliver the check and instead informed counsel for the trustee that he would deliver the check the morning of September 3, 2013.

On September 3, 2013, Tinder again left counsel for the trustee a voicemail, indicating that the bank would not release the funds because the deposit had been made in cash. He then promised to promptly deliver the check. At 4:48 p.m. on September 3, 2013, Respondent left the trustee's counsel another message, this time stating that his client would be delivering the settlement check, but the client was stuck in traffic. After 6:00 p.m., Tinder's client delivered the check, which was written on Tinder's COLTAF account. The trustee's counsel notified Tinder the next day that he was going to deposit the check that day. Tinder called him back and explained that he needed to confirm with the bank whether the funds would be released. Later that day, Tinder told counsel for the trustee that he had not heard from the bank but had an appointment there early the next morning.

The check was eventually deposited on September 9, 2013. Two days later, the trustee was notified that the check had been returned unpaid due to a stop payment order put in place by Tinder. In fact, Tinder's client never deposited the settlement funds into Tinder's COLTAF account. Tinder admits he made untrue statements to the trustee's counsel. Although he claims his client told him the funds had been deposited into Tinder's COLTAF account by September 3, 2013, Tinder did not confirm that deposit until after the check had been delivered to counsel for the trustee. Moreover, after he learned that the deposit had not been made, he did not notify the trustee's counsel or the trustee that the funds were unavailable. The trustee filed a civil lawsuit against Tinder to recover treble damages, and that lawsuit is still pending.

By repeatedly misrepresenting the possession of settlement funds in his COLTAF account, Tinder violated Colo. RPC 8.4(c), which proscribes conduct involving dishonesty, fraud, deceit, or misrepresentation.