

People v. Ronald G. Walls II. 18PDJo51. May 10, 2019.

Following a sanctions hearing, the Presiding Disciplinary Judge disbarred Ronald G. Walls II (attorney registration number 48556). The disbarment took effect June 14, 2019.

In two client matters, Walls documented in invoices the remaining amounts of his clients' retainers, yet he never returned those unearned funds. Nor did he respond to one client's request for an accounting. Walls converted the clients' money.

Through this conduct, Walls violated Colo. RPC 1.15A(b) (upon receiving funds or other property of a client or third person, a lawyer shall promptly deliver to the client or third person any funds or property that person is entitled to receive); Colo. RPC 1.16(d) (a lawyer shall protect a client's interests upon termination of the representation, including returning unearned fees to which the client is entitled); and Colo. RPC 8.4(c) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation).

The case file is public per C.R.C.P. 251.31. Please see the full opinion below.

SUPREME COURT, STATE OF COLORADO ORIGINAL PROCEEDING IN DISCIPLINE BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1300 BROADWAY, SUITE 250 DENVER, CO 80203	
<hr/> Complainant: THE PEOPLE OF THE STATE OF COLORADO Respondent: RONALD G. WALLS II, #48556	<hr/> Case Number: 18PDJ051
OPINION AND DECISION IMPOSING SANCTIONS UNDER C.R.C.P. 251.19(c)	

In two client matters, Ronald G. Walls II (“Respondent”) knowingly converted unearned retainers and failed to protect his clients’ interests when the representations terminated. Respondent’s misconduct warrants disbarment.

I. PROCEDURAL HISTORY

Under C.R.C.P. 251.8, Respondent was immediately suspended by the Colorado Supreme Court on September 27, 2018.

On October 25, 2018, Justin P. Moore, Office of Attorney Regulation Counsel (“the People”), filed a complaint with the Presiding Disciplinary Judge (“the Court”). The same day, the People sent copies of the complaint to Respondent via certified and regular mail at his registered business and last-known addresses.¹ When the due date for Respondent’s answer had passed, the People sent him a letter on November 16, 2018, reminding him to answer.

On December 14, 2018, the People moved for entry of default. The Court granted the People’s default motion in January 2019. Upon the entry of default, the Court deemed all facts set forth in the complaint admitted and all rule violations established by clear and convincing evidence.²

At the sanctions hearing held under C.R.C.P. 251.15(b) on April 22, 2019, Moore represented the People. Respondent did not appear. During the hearing, the People’s exhibits 1-4 were admitted into evidence, and the Court heard testimony from Sadie Calkins

¹ See Ex. 1 for Respondent’s registered addresses.

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

and Jessica Tuck.³ Also at the hearing, the People requested—and were granted—an additional fourteen days to supplement their request for restitution. The People did not file any such supplement within that fourteen-day window.

II. ESTABLISHED FACTS AND RULE VIOLATIONS

Respondent took the oath of admission and was admitted to practice law in Colorado on July 29, 2015, under attorney registration number 48556. He is thus subject to the Court's jurisdiction in this disciplinary proceeding.⁴

Billing Records

In 2017, Respondent opened a law practice called Walls Law LLC. Around June 28, 2017, Walls Law LLC, through Respondent, opened a COLTAF account at Wells Fargo Bank. At all relevant times, Respondent had signatory and supervisory authority for this COLTAF account. Bank statements reflect the following balances in the COLTAF account⁵:

- July 1, 2017: \$25.00
- July 31, 2017: \$12,351.50
- August 31, 2017: \$12,337.00
- September 30, 2017: \$13,720.74
- October 31, 2017: \$11,045.96
- November 30, 2017: \$12,620.96
- December 31, 2017: \$10,671.30
- January 31, 2018: \$6,941.30
- February 28, 2018: \$3,291.30
- March 31, 2018: \$41.30
- April 30, 2018: \$41.30

Calkins Matter

Respondent represented Sadie Calkins in post-decree litigation against Calkins's ex-husband. On July 12, 2017, Calkins paid Respondent a retainer of \$2,500.00, which he deposited into the Walls Law LLC COLTAF account.

On July 18, 2017, Respondent sent Calkins an invoice in the amount of \$156.00 for work performed between July 5 and July 12.⁶ On August 15, 2017, Respondent emailed Calkins a second invoice, this time for \$285.00 for work performed between August 3 and August 11. This invoice reflects that \$2,059.00 remained of Calkins's retainer.⁷ On September 2, 2017, Respondent emailed a third invoice reflecting work performed on

³ F/k/a Jessica Larson.

⁴ See C.R.C.P. 251.1(b).

⁵ See Ex. 2.

⁶ Ex. 3.

⁷ Ex. 3.

August 28 and valued at \$15.00. This invoice showed that \$2,044.00 remained of Calkins's retainer.⁸

Throughout the rest of 2017, Calkins and Respondent did not communicate, as there were no pending issues in Calkins's matter. In early March 2018, however, Calkins attempted to contact Respondent. He did not respond. On March 7, 2018, Calkins terminated the attorney-client relationship by email and requested an accounting and a refund of the money left in her retainer. Respondent did not respond to Calkins's subsequent lawyer's attempts to contact him in order to execute a substitution of counsel.

Respondent did not perform work or earn any additional fees for work on Calkins's case after August 28, 2017. Because Respondent did not earn \$2,044.00 of Calkins's retainer, he knew that this amount remained as Calkins's property. Yet he failed to retain any portion of this unearned retainer.

At the end of March 2018, the balance in the Walls Law LLC COLTAF account dropped to \$41.30. Because that balance was far less than the \$2,044.00 that he should have held as Calkins's unearned retainer, Respondent converted funds that belonged to her by using her funds for his own purposes.

Through this misconduct, Respondent violated Colo. RPC 8.4(c), which provides that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation; Colo. RPC 1.16(d), which provides that a lawyer must take steps upon termination to protect a client's interests, including by giving reasonable notice to the client and refunding unearned fees; and Colo. RPC 1.15A(b), which provides that a lawyer who receives funds or property of a client must promptly deliver to the client any funds or property that the client is entitled to receive and, on request, provide an accounting as to that property.

Tuck Matter

In summer 2017, Jessica Tuck contacted Respondent for legal assistance. Tuck was concerned that her child's biological father or grandmother might seek visitation of the child. Tuck signed a fee agreement on July 12, 2017, and paid Respondent a retainer of \$2,500.00: \$1,250.00 on July 12 and \$1,250.00 on August 10. Both payments were deposited into the Walls Law LLC COLTAF account.

Respondent entered his appearance and corresponded somewhat regularly with Tuck between July and December 2017. He sent Tuck periodic invoices, explaining what work he had performed and what fees he earned. In December 2017, Respondent sent Tuck an invoice in which he represented that he had performed work through December 8, 2017, and

⁸ Ex. 3.

that \$1,948.00 remained of Tuck's retainer.⁹ No significant activity occurred in Tuck's legal matter between December 8, 2017, and early March 2018.

On March 15, 2018, Tuck emailed Respondent, stating, "I wouldn't be surprised if he [the father of Tuck's son] or his mother try to file motions on the custody case, which is why I want to retain you until final rulings."¹⁰ Respondent did not respond. On March 22, 2018, Tuck sent Respondent another email in which she wrote, "If I need to hire another attorney, I would like to request my file and unused retainer, which is approximately \$1900 per your last invoice."¹¹ Again, Respondent did not respond.

Despite Tuck's attempts to communicate with Respondent after December 2017, the December 2017 invoice is the last communication Tuck received from him. Respondent did not earn any fees for work on Tuck's case after December 8, 2017. Because Respondent did not earn \$1,948.00 of Tuck's retainer, he knew that his amount remained as Tuck's property. Even so, he failed to return any portion of Tuck's unearned retainer.

At the end of March 2018, the balance in the Walls Law LLC COLTAF account dropped to \$41.30. Because that balance was far less than the \$1,948.00 that he should have held as Tuck's unearned retainer, Respondent converted funds that belonged to her by using her funds for his own purposes.

Through this misconduct, Respondent violated Colo. RPC 8.4(c); Colo. RPC 1.16(d); and Colo. RPC 1.15A(b).

SANCTIONS

The American Bar Association *Standards for Imposing Lawyer Sanctions* ("ABA Standards")¹² and Colorado Supreme Court case law guide the imposition of sanctions for lawyer misconduct.¹³ When imposing a sanction after a finding of lawyer misconduct, the Court must consider the duty violated, the lawyer's mental state, and the actual or potential injury caused by the 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: By knowingly converting client funds, Respondent violated his duties of loyalty and honesty to his clients. He also violated his duties as a professional by mishandling client funds and failing to account for those funds when requested to do so.

⁹ Ex. 4.

¹⁰ Compl. ¶ 46.

¹¹ Compl. ¶ 48.

¹² Found in ABA *Annotated Standards for Imposing Lawyer Sanctions* (2015).

¹³ See *In re Roose*, 69 P.3d 43, 46-47 (Colo. 2003).

Mental State: The order of default establishes that Respondent knowingly converted client funds. The Court infers from the established facts that Respondent likewise knowingly violated the remaining rules at issue here.

Injury: Respondent caused Calkins and Tuck significant financial injury. Calkins testified that as a single mother who was “barely getting by,” the loss of \$2,044.00 placed a significant strain on her finances. She said she had to borrow money to retain subsequent counsel. Tuck likewise testified that she suffered a “huge impact” when Respondent “disappeared with [her] money.” As she explained, she has been undergoing chemotherapy treatment for cancer; the money that Respondent took could have been used to pay some of her medical bills or to defray personal expenses when she took time off work for treatment.

Both women also described how Respondent marred their perception of the legal profession. Calkins recounted feeling scared and blindsided, not knowing whom she could trust. Tuck expressed frustration that she hired Respondent, believing that she could rely on him, only to find that he took her money, dropped her case, and left her alone without legal guidance. She said that although she needs to hire a lawyer, she is having a hard time retaining one because she has lost faith and trust in the legal profession.

ABA Standards 4.0-7.0 – Presumptive Sanction

Respondent’s knowing conversion is addressed by ABA *Standard* 4.11, which calls for disbarment when a lawyer knowingly converts client property and causes injury or potential injury to a client.

As to the other claims, the People cite ABA *Standards* 4.12 and 7.2, both of which provide for suspension. The former presumptively applies when a lawyer causes a client injury or potential injury by knowingly dealing improperly with client property. The latter applies when a lawyer knowingly engages in conduct that violates a professional duty—here, failing to protect client interests on termination of the attorney-client relationship—and, as a result, causes injury or potential injury to a client, the public, or the legal profession. Though these *Standards* do apply, the Court here follows the precept that the “[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.”¹⁴ Accordingly, the proven claims of conversion, which are the gravamen of the case, fix disbarment as the presumptive sanction here.

ABA Standard 9.0 – Aggravating and Mitigating Factors

Aggravating circumstances include any considerations or factors that may justify an increase in the degree of the presumptive sanction to be imposed, while mitigating

¹⁴ ABA *Annotated Standards for Imposing Lawyer Sanctions* xx.

circumstances may warrant a reduction in the severity of the sanction.¹⁵ Four aggravating factors are present here: Respondent's dishonest and selfish motive, his pattern of misconduct, his multiple offenses, and his failure to cooperate in this disciplinary proceeding.¹⁶ Because Respondent did not appear at the hearing, the Court knows of just one applicable mitigating factor: his lack of prior discipline.¹⁷

Analysis Under ABA Standards and Colorado Case Law

The Court recognizes the Colorado Supreme Court's directive to exercise discretion in imposing a sanction and to carefully apply aggravating and mitigating factors,¹⁸ mindful that "individual circumstances make extremely problematic any meaningful comparison of discipline ultimately imposed in different cases."¹⁹ Though prior cases are helpful by way of analogy, the Court is charged with determining the appropriate sanction for a lawyer's misconduct on a case-by-case basis.

Here, Respondent knowingly converted client funds from Calkins and Tuck.²⁰ Both clients had outstanding retainer balances, as reflected by Respondent's own invoices, which showed he held \$2,044.00 in unearned fees from Calkins and \$1,948.00 in unearned fees from Tuck. But he never refunded the money to his clients, nor did he return Tuck's file or provide Calkins an accounting as she requested. Tuck summed up well Respondent's discreditable behavior: he "took the money and ran," she said.

The ABA Standards call for disbarment as a presumptive sanction, and case law supports imposition of that discipline.²¹ Although significant mitigating factors may overcome the presumption of disbarment, the one applicable mitigator does not justify

¹⁵ See ABA Standards 9.21 & 9.31.

¹⁶ ABA Standards 9.22(b)-(d) and (e). The People urge the Court to find in aggravation the vulnerability of the victims under ABA Standard 9.22(h), as both Calkins and Tuck testified that they felt legally and financially vulnerable. But the Court does not find any unusual facts significant enough to differentiate these clients, or their cases, from any other client or case. "People hire attorneys because they are in situations serious enough to require legal expertise and advice. A client's need for an attorney does not render him or her vulnerable . . ." *In re Anshell*, 69 P.3d 844, 858 (Wash. 2003). The Court thus declines to apply this aggravator.

¹⁷ ABA Standard 9.32(a).

¹⁸ 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).

¹⁹ *In re Attorney F.*, 285 P.3d at 327 (quoting *In re Rosen*, 198 P.3d 116, 121 (Colo. 2008)).

²⁰ See *People v. Varallo*, 913 P.2d 1, 10-12 (Colo. 1996) (establishing that knowing conversion "consists simply of a lawyer taking a client's money entrusted to him, knowing that it is the client's money and knowing that the client has not authorized the taking").

²¹ *Id.*, 913 P.2d at 11 (remarking that lawyers are almost "invariably disbarred" for misappropriating client funds); see also *People v. Lavenhar*, 934 P.2d 1355, 1358-59 (Colo. 1997) (noting that a lawyer's misappropriation of funds belonging to a third party violated the predecessor to Colo. RPC 8.4(c) and stating that such conduct warrants disbarment, absent extraordinary mitigating factors); *People v. Lefly*, 902 P.2d 361, 364 (Colo. 1995) (disbarring an attorney for knowingly converting client funds despite mitigating factors, including payment of full restitution to his clients after the request for investigation was filed).

reducing the presumptive sanction in this circumstance.²² The Court thus disbars Respondent.

III. CONCLUSION

In two cases, Respondent documented in invoices the remaining amounts of his clients' retainers, yet he never returned those unearned funds. Nor did he responded to one client's request for an accounting. Respondent thereby converted the clients' money, conduct that is inimical to the duties he owes his clients and the profession. The Court concludes that Respondent should be disbarred.

IV. ORDER

The Court therefore **ORDERS**:

1. **RONALD G. WALLS II**, attorney registration number **48556**, will be **DISBARRED** from the practice of law. The **DISBARMENT SHALL** take effect only upon issuance of an "Order and Notice of Disbarment."²³
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. Respondent also **SHALL** file with the Court, within fourteen days of issuance of the "Order and Notice of Disbarment," an affidavit complying with C.R.C.P. 251.28(d), requiring an attorney to file an affidavit with the Court setting forth pending matters and attesting, *inter alia*, to notification of clients and other jurisdictions where the attorney is licensed.
4. The parties **MUST** file any posthearing motions **on or before Friday, May 24, 2019**. Any response thereto **MUST** be filed within seven days.
5. The parties **MUST** file any application for stay pending appeal **on or before Friday, May 31, 2019**. Any response thereto **MUST** be filed within seven days.
6. Respondent **SHALL** pay the costs of this proceeding. The People **SHALL** file a statement of costs **on or before Friday, May 24, 2019**. Any response thereto **MUST** be filed within seven days.

²² See *In re Thompson*, 991 P.2d 820, 823 (Colo. 1999) (disbarring an attorney who knowingly converted client funds despite a clean disciplinary record, the presence of personal and emotional problems, and payment of restitution); *People v. Young*, 864 P.2d 563, 564 (Colo. 1993) (disbarring a lawyer who converted clients' funds, even though the lawyer had no disciplinary history, had cooperated with disciplinary authorities, and had made full restitution).

²³ In general, an order and notice of sanction will issue thirty-five days after a decision is entered under 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.

7. Respondent **SHALL** pay restitution as follows:

- a. **On or before Friday, June 7, 2019**, Respondent **SHALL** pay \$2,044.00 to Sadie Calkins; and
- b. **On or before Friday, June 7, 2019**, Respondent **SHALL** pay \$1,948.00 to Jessica Tuck.

DATED THIS 10th DAY OF MAY, 2019.

[original signature on file]

WILLIAM R. LUCERO
PRESIDING DISCIPLINARY JUDGE

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