

People v. Michael Donovan Evans. 19PDJ081. February 20, 2020.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Michael Donovan Evans (attorney registration number 39407) for two years, to run consecutive to a two-year suspension he is currently serving in case number 18PDJ019. The suspension thus takes effect February 15, 2021. To be reinstated, Evans must first pay restitution and then formally petition for reinstatement; he will be required to prove by clear and convincing evidence that he has been rehabilitated, has complied with disciplinary orders and rules, and is fit to practice law. The sanction took into account compelling mitigating circumstances.

In four client matters, Evans failed keep client retainers in his trust account, recklessly consumed those unearned fees, and never refunded to clients the amounts they were owed. Through this conduct, Evans violated Colo. RPC 1.5(f) (a lawyer does not earn fees until a benefit is conferred on the client or the lawyer performs a legal service); Colo. RPC 1.15A(a) (a lawyer shall hold client property separate from the lawyer's own property); 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) (providing that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation).

In another client matter, Evans accepted a flat fee retainer in cash, which he did not deposit into his business or trust account. The client provided the retainer per a fee agreement that contained a benchmark calling for an unreasonable fee. Evans later moved to withdraw but did not return any portion of the retainer. Evans thereby violated Colo. RPC 1.5(f); Colo. RPC 1.15A(a); and Colo. RPC 1.16(d). In a separate client matter, Evans failed to safeguard in his trust account a client's retainer and then failed to refund unearned fees in violation of Colo. RPC 1.5(f) and Colo. RPC 1.15A(a).

Evans also failed to communicate with a client who had hired him to seal his criminal records in violation of Colo. RPC 1.4(a)(3) (a lawyer shall keep a client reasonably informed about the status of the matter). In another client matter, he charged a client unreasonable fees for attending a hearing on a day in which no hearing took place. He then filed a civil lawsuit against his client for an unpaid balance, and he twice included a copy of the unreasonable billing statement as an exhibit in the same case. Through this conduct, Evans violated Colo. RPC 1.5(a) (a lawyer shall not charge an unreasonable fee or an unreasonable amount for expenses) and Colo. RPC 3.1 (a lawyer shall not assert frivolous claims). In a final matter, Evans brought a civil action against a former client to collect attorney's fees, during which he unnecessarily made public certain documents that contained privileged correspondence or were otherwise disparaging or irrelevant. Evans thereby violated Colo. RPC 1.9(c)(2) (a lawyer who has formerly represented a client in a matter shall not reveal information relating to the representation).

The case file is public per C.R.C.P. 251.31.