

*People v. Andrew Arthur Wichern. 23PDJ040. August 22, 2024.*

The Presiding Disciplinary Judge approved the parties' stipulation to discipline and disbarred Andrew Arthur Wichern (attorney registration number 38244). The disbarment took effect August 22, 2024.

Wichern served as founder, chief legal officer, and corporate secretary of a software startup. In that capacity, Wichern violated Colo. RPC 1.4(b) (a lawyer must explain a matter to the extent reasonably necessary to permit the client to make informed decisions about the representation) when he failed to inform the company that it had issued stock in excess of what was authorized in its certificate of incorporation. Wichern also failed to inform the company that he filed with the Securities and Exchange Commission, more than seven months late, an AA Form D, which provides information to investors about a new stock issuance. Moreover, Wichern altered the 83(b) filings of three company founders without informing them that he did so; those filings give the founders an ability to pay taxes on the total fair market value of restricted stock on the day of its grant, rather than on the day it vests. Finally, Wichern failed to inform the company of outside counsel's concerns about the company's corporate documents and stock issuance.

Wichern also violated Colo. RPC 1.7(a)(2) (a lawyer must not represent a client if there is a significant risk that the representation of a client will be materially limited by a personal interest of the lawyer). When the start-up company hired Wichern's wife, he advocated that the company compensate her using a minimal strike price for her stock options. He also argued that her vesting schedule should be accelerated, and he coordinated others' purchase of her newly vested stock. Further, Wichern attempted to add his teenage children as inventors on a company patent. Wichern also directed the finance department to increase his own salary.

Because Wichern practiced law for more than a year while he was administratively suspended for nonpayment of registration fees, he violated Colo. RPC 5.5(a) (a lawyer must not practice law without a valid law license or other specific authorization).

Finally, Wichern violated Colo. RPC 8.4(c) (it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation). Wichern made inaccurate representations to potential AA and BB stockholders regarding outstanding shares and shares held by the founders. He made misrepresentations to the State of Delaware by filing a backdated amended certificate of incorporation and other backdated corporate documents. He misrepresented his salary to another co-founder who was ultimately terminated from the company. And he improperly used and/or received thousands of dollars in corporate funds between 2013 and 2021 without authorization, converting them to his own use.

The case file is public per C.R.C.P. 242.41(a).