

*People v. Grant David Van Der Jagt. 24PDJ054. November 26, 2024.*

The Presiding Disciplinary Judge approved the parties' stipulation to discipline and publicly censured Grant David Van Der Jagt (attorney registration number 42029), effective November 26, 2024.

In November 2022, the town of Monument voted to adopt a home rule charter. During the lead-up to the election, concerns arose about whether the town could properly reimburse election expenses incurred by a group advocating for the charter. In December 2022, the Monument Town Council met to discuss whether to pursue an investigation; a majority of the council members authorized the investigation. Several council members whose terms were set to expire at the end of 2022 asked Van Der Jagt to conduct the investigation. At their request, he submitted a resume, a draft fee agreement, and an engagement letter. On December 16, 2022, the council voted to hire Van Der Jagt; the mayor and the then-town manager immediately signed his engagement letter. Though Van Der Jagt believed that he was being retained as an investigator for some select council members, he concedes he should have memorialized in an amended engagement agreement who his client was and the specific scope of his services. His failure to do so resulted in imprecision about who was retaining him and about the scope of his investigation.

In late December 2022, Van Der Jagt investigated the expenses issue and discovered information about the conduct of government officials that concerned him as a citizen. The report he drafted was marked as privileged and confidential and an attorney-client communication, and it cautioned recipients not to publish or disseminate publicly. Before the council could meet to review and discuss the report, a council member sent a copy to members of the media. The council then waived any privilege or confidentiality restrictions attached to the report.

On January 3, 2023, the newly elected town council directed Van Der Jagt to hand over all the materials he collected during the investigation without redactions. He acceded but did not provide the name of one anonymous witness. Thereafter, Van Der Jagt came to believe that the mayor and certain council members were attacking his work, character, and reputation. To defend himself and to exercise what he believed was his civic duty to reveal information about elected officials, he made several social media posts that were critical of the mayor and the council, some of a derogatory nature. Some posts were based on information he learned in the course of his investigation.

Through this negligent conduct, Van Der Jagt violated Colo. RPC 1.9(c)(1) (a lawyer who has formerly represented a client in a matter must not use information relating to the representation to the disadvantage of the former client); and Colo. RPC 1.9(c)(2) (a lawyer who has formerly represented a client in a matter must not reveal information relating to the representation except as the Rules of Professional Conduct permit).

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