SUPREME COURT, STATE OF COLORADO ORIGINAL PROCEEDING IN DISCIPLINE BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1300 BROADWAY, SUITE 250 DENVER, CO 80203	
Complainant: THE PEOPLE OF THE STATE OF COLORADO **Respondent:** GEORGE ROBERT VAHSHOLTZ, #07179	Case Number: **24PDJ090**

OPINION IMPOSING SANCTIONS UNDER C.R.C.P. 242.31(b)

SUMMARY

Following a sanctions hearing, Presiding Disciplinary Judge Bryon M. Large ("the Court") disbarred George Robert Vahsholtz ("Respondent"), attorney registration number 07179. The disbarment is scheduled to take effect on August 15, 2025.

While Respondent was suspended from the practice of law, he and another lawyer entered a fee agreement to represent a client in an open criminal matter and, separately, in a criminal appeal. Respondent deposited the client's $20,000.00 retainer in his business account before he performed any legal work for the client. Though the other lawyer earned $6,700.00 of the retainer, Respondent failed to refund to the client the unearned portion of the retainer.

Through this misconduct, Respondent violated Colo. RPC 1.15A(a) (a lawyer must hold client property separate from the lawyer's own property); Colo. RPC 1.16(d) (a lawyer must protect a client's interests when the representation terminates, including by returning unearned fees to which the client is entitled); and Colo. RPC 8.4(c) (it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation).

I. PROCEDURAL HISTORY

On November 25, 2024, Justin P. Moore of the Office of Attorney Regulation Counsel ("the People") filed a citation and complaint with the Court. When Respondent did not answer within twenty-eight days, the People moved for entry of default. The Court ordered Respondent to answer the People's complaint and to respond to the motion for default no later than Tuesday, February 4, 2025. In its order, the Court noted that the People did not serve the citation and complaint on Respondent at his correct registered work email address, though they served him

at his registered business address. Even so, on January 16, 2025, one day after the Court issued its order, the People moved to withdraw their motion for default with leave to refile. In that motion, the People proposed to send the citation and complaint to Respondent at his registered work email address with instructions that he answer the complaint by February 4, 2025. On January 22, 2025, the Court granted the People's motion, withdrew their motion for default, and adopted their proposal.

On February 7, 2025, the People filed their second motion for default; the Court ordered Respondent to answer the complaint and respond to the second motion for default no later than February 28, 2025. Respondent did not respond to the Court's order. Nor did he file an answer or other responsive pleading.

Under C.R.C.P. 242.27(a), the Court issued an order entering default on March 12, 2025, deeming all allegations and claims in the complaint admitted.[1] Five days later, the Court issued a "Notice of Sanctions Hearing Under C.R.C.P. 242.27(c)," advising Respondent of his right to attend the sanctions hearing, to be represented by counsel at his own expense, to cross-examine witnesses, and to present argument and evidence about the appropriate sanction.

On June 3, 2025, the Court held a sanctions hearing under C.R.C.P. 242.27 and C.R.C.P. 242.30. Moore appeared on the People's behalf. Respondent did not appear. During the hearing, the Court heard testimony from Patrick Peschong, Alan Peschong, and the People's investigator, Laurie Seab. In addition, the Court admitted into evidence the People's exhibit 1.

II. FACTS AND RULE VIOLATIONS ESTABLISHED ON DEFAULT

The Court adopts and incorporates by reference the facts of this case, as fully detailed in the People's complaint. Respondent was admitted to the practice of law in Colorado on May 17, 1976, and he is registered under attorney registration number 07179. He is thus subject to the jurisdiction of the Colorado Supreme Court and this Court in this disciplinary proceeding.[2]

On July 29, 2019, Respondent was suspended from the practice of law. He never reinstated from his suspension. On October 8, 2019, Respondent entered a fee agreement to represent Patrick Peschong. The fee agreement was part of a document titled "Client Information Data and Fee Agreement." Respondent and another lawyer, Tim Lindstrom, signed the agreement. The agreement provided that $10,000.00 would be earned for work on Peschong's criminal case in El Paso County and $10,000.00 would be earned separately for appealing another of Peschong's criminal matters. At the time Respondent signed the agreement, he knew he was suspended from the practice of law and knew he could not provide legal services.

[1] Though the People captioned their motion as a motion for default judgment, the Court adjudicated it as a motion for entry of default, noting that C.R.C.P. 242.27(b) requires a hearing be held to determine the appropriate sanction following the entry of default in a discipline case.
[2] C.R.C.P. 242.1(a)(1).

Peschong's father, Alan Peschong, wrote a check in the amount of $20,000.00. Respondent did not put the money in a trust account because he did not have a trust account; instead, Respondent deposited the $20,000.00 in his business account.[3] Respondent knew he had not earned the funds at the time.

Respondent paid Lindstrom $6,700.00 to start Peschong's case. Lindstrom completed several tasks during the representation, including handling sentencing in one of Peschong's cases and moving to set aside a verdict. Though Lindstrom was initially successful in his request to set aside the verdict, the prosecution appealed, and the matter was remanded to the trial court for an evidentiary hearing. Peschong's conviction was reinstated.

In late 2022, Lindstrom prepared and filed a notice of appeal of Peschong's reinstated conviction. But Respondent did not pay or disburse any amounts for the appeal to Lindstrom or anyone else. In fact, Lindstrom did not bill for his work on Peschong's appeal. He did not intend to bill for the work, as he had agreed to charge nothing for the work and to handle the matter pro bono. Lindstrom's invoices confirm he zeroed out fees owed for various tasks, and there is no indication he billed for work on the appeal. Linstrom's representation in Peschong's case ended in January 2023.

On June 30, 2023, Peschong and Respondent spoke on the telephone. Respondent acknowledged that no work had been done on the appeal. During the call, Peschong asked Respondent to refund $10,000.00 to Peschong's father. During the same call, Respondent informed Peschong that Lindstrom was no longer involved in Peschong's case and that another lawyer was handling the appeal. Accordingly, the representation—for which Peschong's father paid Respondent in advance—terminated.

On July 19, 2023, Peschong tried calling Respondent but was unable to leave a message. The same day, he sent Respondent a letter requesting a partial refund of the retainer; specifically, Peschong asked for a refund of the money to fund an appeal. Peschong made additional efforts to contact Respondent by telephone and text message about the refund. On August 7, 2023, Peschong again called Respondent and renewed his request for a $10,000.00 refund. During that call, Respondent said he was trying to earn money but described himself as "broke."[4] Respondent offered to make installment payments and indicated that he wanted to verify amounts he owed Lindstrom. But neither Respondent nor Lindstrom earned any money for the appeal other than $915.00 at most, and Peschong did not owe Lindstrom any fees for work on the appeal.

Respondent combined the remainder of Peschong's retainer with $50,000.00 of his own funds in an account that was not a trust account. Respondent has not refunded any portion of the money Peschong's father paid to appeal Peschong's case, even though Respondent knew that Lindstrom did not claim he was entitled to those funds, and even though neither Peschong nor Peschong's father authorized Respondent to continue to exercise control over the funds.

[3] Compl. ¶ 7.
[4] Compl. ¶ 24.

As established on default, Respondent's conduct violated three Colorado Rules of Professional Conduct.

- Respondent failed to keep separate the unearned portion of the retainer from his own money or hold the unearned funds in a trust account. Respondent thus violated Colo. RPC 1.15A(a), which requires a lawyer to hold property of clients or third persons that is in the lawyer's possession in connection with a representation in a trust account, separate from the lawyer's own property.

- At the end of June 2023, Respondent failed to return the unearned portion of the funds earmarked to pay for Peschong's appeal. Respondent thus violated Colo. RPC 1.16(d), which provides that upon termination of a representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as refunding any advance payment of fee or expense that has not been earned or incurred.

- Finally, Colo. RPC 8.4(c) provides that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. Respondent treated the entire $20,000.00 retainer as his own, even though he knew that he had not earned the money, that the money did not belong to him, and that neither Peschong nor Peschong's father had authorized him to take the funds. Thus, through his handling of Peschong's retainer and his conduct in continuing to exercise unauthorized dominion over the funds, Respondent knowingly converted the funds.

III. SANCTIONS

The American Bar Association *Standards for Imposing Lawyer Sanctions* ("ABA *Standards*")[5] and Colorado Supreme Court case law guide the imposition of sanctions for lawyer misconduct.[6] When imposing sanctions after a finding of misconduct, the Court must consider the duty the lawyer violated, the lawyer's mental state, and the actual or potential injury the lawyer's misconduct caused. These three variables yield a presumptive sanction that the Court may then adjust based on aggravating and mitigating factors.

ABA *Standard* 3.0 – Duty, Mental State, and Injury

Duty: Respondent violated his duty to safeguard client funds as well as his duty to reasonably protect his client's interests after the representation ended.

Mental State: The Court's order entering default established that Respondent knowingly converted Peschong's retainer in violation of Colo. RPC 8.4(c). The Court also finds that

[5] Found in ABA *Annotated Standards for Imposing Lawyer Sanctions* (2d ed. 2019).
[6] *See In re Roose*, 69 P.3d 43, 46-47 (Colo. 2003).

Respondent acted knowingly when he failed to safeguard those funds in violation of Colo. RPC 1.15A(a) and acted knowingly when he failed to return unearned funds to Peschong after the representation ended, thereby violating Colo. RPC 1.16(d).

Injury: Respondent's misconduct harmed Peschong and Peschong's father by depriving them of their money. Both testified credibly that Peschong's father had to withdraw money from his federal government retirement plan to pay the retainer. Peschong's father also explained that he retired in the mid-1990s and is supported by his retirement income, so withdrawing money for the retainer affected his retirement management. The absence of those funds continues to factor into his financial decisions. He said that having the refund would help his finances.

Respondent's failure to refund money to the Peschongs also harmed the reputation of the legal profession. Peschong testified credibly that he felt "scammed" because Respondent held himself out to the Peschongs as a reputable lawyer but then failed to return their money, despite the many opportunities he had to do the right thing. The experience with Respondent, Peschong said, "destroyed" his view of lawyers and the legal profession. He expressed disbelief and anger that Respondent—a seasoned lawyer—claimed to be broke, particularly because Peschong learned that Respondent was living in Belize. In addition, Peschong's father, who already distrusted lawyers, testified that Respondent's conduct was consistent with his general negative view of the legal profession.[7]

ABA *Standards* 4.0-8.0 – Presumptive Sanction

ABA *Standard* 4.11 provides that disbarment is generally appropriate when a lawyer knowingly converts client property, thereby causing a client injury or potential injury. Disbarment is also generally appropriate under ABA *Standard* 8.1(b) when a lawyer has been suspended for the same or similar misconduct yet intentionally or knowingly engages in further similar acts of misconduct that injure or potentially injure a client, the public, the legal system, or the profession.

ABA *Standard* 9.0 – Aggravating and Mitigating Factors

Aggravating factors may justify an increase in the degree of the sanction to be imposed, while mitigating factors may warrant a reduction in the severity of the sanction.[8] As explained below, the Court applies five aggravating factors. Because the Court received no evidence of mitigation, it cannot find that any mitigating factors apply under ABA *Standard* 9.32.

[7] Although Peschong's father spoke fondly spoke of a former South Dakota Supreme Court justice, a former fishing buddy who inspired high respect for the legal profession, Peschong's father also explained that he had negative experiences when working with lawyers.

[8] *See* ABA *Standards* 9.21 and 9.31.

Aggravating Factors

Prior Disciplinary Offenses – 9.22(a): Respondent has been disciplined thrice based on stipulated misconduct.[9] First, in July 2019, the Court suspended Respondent for one year and one day for violating Colo. RPC 8.4(b), which prohibits a lawyer from engaging in criminal acts that reflect adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer.[10] That discipline stemmed from Respondent's convictions for alcohol-related driving offenses, including driving under the influence of alcohol with three prior offenses, a class-four felony.

Second, in April 2020, Respondent was suspended for one year after he practiced law during his disciplinary suspension.[11] Respondent violated Colo. RPC 3.4(c), which prohibits lawyers from knowingly disobeying an obligation under the rules of a tribunal, and Colo. RPC 5.5(a)(1), which prohibits lawyers from practicing law without authorization.

Third, in June 2022, the Court suspended Respondent for three years because he knowingly mishandled client money and failed to safeguard his clients' funds in violation of Colo. RPC 1.15A(a), Colo. RPC 3.4(c), and Colo. RPC 5.5(a)(2), which prohibits lawyers from practicing law in another jurisdiction when doing so violates the jurisdiction's legal regulations.[12]

Dishonest or selfish motive – 9.22(b): Respondent's conduct is aggravated by his dishonest and selfish motive, as evidenced by his knowing conversion of Peschong's retainer and his failure to provide a refund.

Pattern of Misconduct – 9.22(c): Respondent's spate of discipline since 2019, particularly his knowing mishandling of client funds for which he was suspended in 2022, warrants application of this aggravating factor.

Vulnerability of the victim – 9.22(h): The Court finds in aggravation that Peschong's father is a vulnerable victim of Respondent's misconduct because Peschong's father depends on his fixed retirement income, which Respondent has converted for his own use.

Substantial experience in the practice of law – 9.22(i): Respondent was admitted to practice law almost fifty years ago and thus has substantial experience as a lawyer, warranting application of this factor in aggravation.

[9] *See* Ex. 1.
[10] Case number 19PDJ033.
[11] Case number 20PDJ017.
[12] Case number 22PDJ030.

Analysis Under ABA *Standards* and Case Law

The Colorado Supreme Court directs this Court to exercise discretion in imposing a sanction because "individual circumstances make extremely problematic any meaningful comparison of discipline ultimately imposed in different cases."[13] As such, the Court determines the appropriate sanction for a lawyer's misconduct on a case-by-case basis, looking to the ABA *Standards* for guidance in the exercise of that discretion. The ABA *Standards* establish a theoretical framework that provides for "the flexibility to select the appropriate sanction in [a] particular case" after carefully considering the applicable aggravating and mitigating factors.[14] Thus, while prior decisions imposing sanctions for lawyer misconduct can be persuasive, the Court is free to distinguish those cases and deviate from the presumptive sanction when appropriate.

The Court begins its analysis with the presumptive sanction for Respondent's misconduct: ABA *Standards* 4.11 and 8.1(b) all point to disbarment as the appropriate sanction here. Five factors aggravate Respondent's misconduct, while no mitigating factors are present. As such, disbarment, which is the most severe sanction available under Colorado's lawyer disciplinary regime and the ABA *Standards*, is the appropriate sanction for Respondent's misconduct.

Consonant with the ABA *Standards*, Colorado Supreme Court case law calls for disbarment when a lawyer knowingly converts client property and thus injures the client. Knowing misappropriation of client funds almost always warrants disbarment unless extraordinary mitigating factors apply.[15] Because no such mitigation exists here, disbarment remains the appropriate sanction for Respondent's misconduct under the guiding case law.

Restitution

The People seek $10,000.00 in restitution for the Peschongs, arguing that $10,000.00 is clearly owed under Peschong's fee agreement. The established facts show that, from the $20,000.00 retainer, Respondent paid Lindstrom $6,700.00 for work Lindstrom performed and billed in Peschong's case. The facts also show that Respondent did not return to the Peschongs any unearned funds, including the $10,000.00 earmarked for Peschong's appeal. Because Respondent was not authorized to practice law, and, by extension, not authorized to charge any

[13] *In re Attorney F.*, 2012 CO 57, ¶ 20 (*quoting In re Rosen*, 198 P.3d 116, 121 (Colo. 2008)).
[14] *Id.* ¶ 3.
[15] *See People v. Varallo*, 913 P.2d 1, 10-11 (Colo. 1996) (concluding that a lawyer's absence of prior discipline and evidence of his good character did not overcome the presumption of disbarment when the lawyer knowingly used his client's funds for his personal benefit); *see also People v. Lavenhar*, 934 P.2d 1355, 1359 (Colo. 1997) (finding that a lawyer's misconduct, including knowingly misappropriating third-party funds, was exacerbated by seven aggravating factors and warranted disbarment).

fees for legal work, he is not entitled to any of the retainer.[16] The Court thus finds that the $6,700.00 Respondent paid Lindstrom for work on the case is the only portion of Alan Peschong's $20,000.00 retainer that was properly accounted for.[17] As a corollary, the Court finds $13,300.00 of the retainer was not properly accounted for and that Alan Peschong is entitled to restitution from Respondent in that same amount.[18]

IV. CONCLUSION

When a lawyer knowingly converts client money, disbarment is presumed. When many factors aggravate—and no circumstances mitigate—that misconduct, disbarment is "virtually automatic."[19] For these reasons, disbarment is the only appropriate sanction here.

V. ORDER

The Court **ORDERS:**

1. **GEORGE ROBERT VAHSHOLTZ**, attorney registration number **07179**, is **DISBARRED** from the practice of law in Colorado. The disbarment will take effect upon issuance of an "Order and Notice of Disbarment."[20]

2. Respondent **MUST** pay restitution totaling $13,300.00, **no later than August 15, 2025**, to Alan Peschong, care of Justin P. Moore of the Office of Attorney Regulation Counsel. If Alan Peschong or Patrick Peschong receives payment under a claim submitted to the Attorneys' Fund for Client Protection, Respondent **MUST** reimburse the Fund **no later than August 15, 2025.**

3. To the extent applicable, Respondent **MUST** promptly comply with C.R.C.P. 242.32(b)-(e), concerning winding up of affairs, notice to current clients, duties owed in litigation matters,

[16] *Cf. People v. Love*, 775 P.2d 26, 27 (Colo. 1989) (ordering a nonlawyer to pay restitution for fees he received while engaging in the unauthorized practice of law).

[17] The Court recognizes that the facts established on default show that work valued at no more than $915.00 may have been performed on Peschong's appeal. The Court declines to add that amount to the portion of the retainer funds that are accounted for, however, because Lindstrom did not charge Peschong for his work on the appeal, and Respondent was not authorized to perform any legal work.

[18] *See* C.R.C.P. 241 (defining restitution as "the return of fees, money, or other things of value that were paid or entrusted to a lawyer").

[19] *People v. Kearns*, 843 P.2d 1, 5 (Colo. 1992).

[20] In general, an order and notice of sanction will issue thirty-five days after a decision is entered under C.R.C.P. 242.31(a)(6). In some instances, the order and notice may issue later than the thirty-five days by operation of C.R.C.P. 242.35, C.R.C.P. 59, or other applicable rules.

and notice to other jurisdictions where he is licensed or otherwise authorized to practice law.

4. Within fourteen days of issuance of the "Order and Notice of Disbarment," Respondent **MUST** file an affidavit with the Court under C.R.C.P. 242.32(f), attesting to his compliance with C.R.C.P. 242.32. As provided in C.R.C.P. 242.41(b)(5), lists of pending matters, lists of clients, and copies of client notices under C.R.C.P. 242.32(f) must be marked as confidential attachments and filed as separate documents from the affidavit.

5. The parties **MUST** file any posthearing motions **no later than July 25, 2025**. Any response thereto **MUST** be filed within seven days.

6. The parties **MUST** file any application for stay pending appeal **no later than the date on which the notice of appeal is due**. Any response thereto **MUST** be filed within seven days.

7. Respondent **MUST** pay the costs of this proceeding. The People **MUST** submit a statement of costs **no later than July 25, 2025**. Any response challenging the reasonableness of those costs **MUST** be filed within seven days thereafter.

8. As part of any petition for readmission, Respondent **MUST** demonstrate, as applicable, that he has paid all restitution or has fully reimbursed the Attorneys' Fund for Client Protection.

DATED THIS 11th DAY OF JULY, 2025.

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BRYON M. LARGE
PRESIDING DISCIPLINARY JUDGE