

People v. Raphael A. Flores. 17PDJ045. June 22, 2017.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Raphael A. Flores (attorney registration number 35468) for nine months with the requirement that he petition for reinstatement and bear the burden of proving by clear and convincing evidence that he has been rehabilitated, has complied with disciplinary orders and rules, and is fit to practice law. His suspension takes effect July 27, 2017.

In August 2015, Flores agreed to assist a former client to seal her criminal records in four criminal cases. The client paid Flores \$2,000.00, but Flores did not deposit the funds into his trust account. Nor did Flores deposit the client's filing fees into his trust account. Flores also did not maintain sufficient accounting records in the case. Flores's client in fact was ineligible to seal or expunge the criminal records from her four convictions under Colorado statutes. Between October 2015 and August 2016, Flores communicated with his client via text message about the status of her case. In those messages, Flores was dishonest with his client about the actions he took on her behalf to seal her records. Flores drafted a single petition to seal her records but never filed it in any court. The client ultimately terminated the representation and sued him to recover her attorney's fees. They settled the lawsuit for \$2,000.00.

On April 6, 2016, Flores was retained to represent a client in domestic relations case. Flores received a \$2,500.00 retainer two days later, but he did not deposit the retainer in his trust account. On May 12, 2016, Flores gave his client a written fee agreement that stated his hourly rate was \$250.00. Flores's client did not sign the agreement because she did not believe it reflected their oral agreement, and the client soon terminated the representation and demanded return of the retainer. Flores gave his client an accounting that reflected 16.40 hours of work, including seven hours for research and one hour for a telephone call. Flores's bill of \$3,000.00 left a \$500.00 balance owed by the client after subtracting the retainer. But Flores had only spent 0.9 hours on the case when he deposited the client's retainer into his operating account on April 11, 2016.

In these matters, Flores violated Colo. RPC 1.1 (a lawyer shall competently represent a client); Colo. RPC 1.3 (a lawyer shall act with reasonable diligence and promptness when representing a client); Colo. RPC 1.4(a)(2) (an attorney shall reasonably consult with a client about the means by which the client's objectives are to be accomplished); Colo. RPC 1.4(a)(3) (a lawyer shall keep a client reasonably informed about the status of the matter); Colo. RPC 1.4(a)(4) (a lawyer shall promptly comply with reasonable requests for information); Colo. RPC 1.5(a) (a lawyer shall not charge an unreasonable fee or an unreasonable amount for expenses); Colo. RPC 1.5(b) (a lawyer shall inform a client in writing about the lawyer's fees and expenses within a reasonable time after being retained, if the lawyer has not regularly represented the client); Colo. RPC 1.15A(a) (a lawyer shall hold client property separate from the lawyer's own property); Colo. RPC 1.15D(a)(1)(A) (a lawyer shall maintain an appropriate record-keeping system to track funds or other property held for others); and Colo. RPC 8.4(c) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation).