***People v. Lance Eldon Isaac*. 15PDJ099. July 29, 2016.**

A hearing board suspended Lance Eldon Isaac (attorney registration number 22918) from the practice of law for six months, with the requirement that he petition for reinstatement, if at all, under C.R.C.P. 251.29(c). In such a proceeding, Isaac will 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. Isaac's suspension took effect September 2, 2016.

Isaac posted public, online responses to two negative client reviews on the internet. His responses included numerous pieces of information relating to his representation of the two clients, including the nature of the underlying cases against his clients, details of the representation, how he was paid, and allegations that one of the clients engaged in criminal conduct. Isaac's disclosure of this information—most particularly his disclosure of client confidences—ran contrary to his duty of loyalty to his clients and violated Colo. RPC 1.6(a), which prohibits lawyers from revealing information relating to the representation of a client unless the client gives informed consent. In imposing the sanction, the hearing board was influenced by the nature of Isaac's misconduct, coupled with his failure to recognize the wrongful nature of his actions and his extensive disciplinary history.

Please see the full opinion below.

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:** LANCE ELDON ISAAC	Case Number: **15PDJ099**
AMENDED OPINION AND DECISION IMPOSING SANCTIONS UNDER C.R.C.P. 251.19(b)[1]	

Lance Eldon Isaac ("Respondent") posted public, online responses to two negative client reviews on the internet. His responses included numerous pieces of information relating to his representation of the two clients, including the nature of the underlying cases against his clients, details of the representation, how he was paid, and allegations that one of the clients engaged in criminal conduct. Respondent's disclosure of this information—most particularly his disclosure of client confidences—runs contrary to his duty of loyalty to his clients. This misconduct, coupled with his failure to recognize the wrongful nature of his actions and his extensive disciplinary history, warrants a suspension of six months, with the requirement that he petition for reinstatement under C.R.C.P. 251.29(c) if he wishes to resume the practice of law.

I. PROCEDURAL HISTORY

On November 9, 2015, Katrin Miller Rothgery, Office of Attorney Regulation Counsel ("the People"), filed a complaint against Respondent, alleging he violated Colo. RPC 1.6(a) in two instances. Respondent answered on December 2, 2015, denying that he engaged in misconduct. Presiding Disciplinary Judge William R. Lucero ("the PDJ") set a one-day disciplinary hearing for May 16, 2016. The People filed a motion for summary judgment on March 21, 2016. After the deadline for his response had passed, Respondent requested an extension to respond. In the interest of deciding the matter after full briefing, the PDJ granted that request, but Respondent never filed a response. The PDJ considered the People's motion on the merits and granted their request for summary judgment on April 21, 2016. The PDJ also converted the disciplinary hearing to a hearing on the sanctions.

[1] Amended upon Respondent's motion of September 1, 2016.

At the May hearing, the Hearing Board comprised David A. Helmer and Jerry D. Otero, members of the bar, and the PDJ. Rothgery represented the People, and Respondent appeared pro se. During the hearing, the Hearing Board considered the People's exhibits 1, 5, and 6, and the testimony of client T.S. and Respondent.

II. FACTS AND RULE VIOLATIONS

Respondent took the oath of admission and was admitted to the bar of the Colorado Supreme Court on August 16, 1993, under attorney registration number 22918. He is thus subject to the jurisdiction of the Colorado Supreme Court and the Hearing Board in this disciplinary proceeding.[2]

Established Facts and Rule Violations

In 2014, Respondent discovered two reviews of his legal services posted on Google+ ("Google Plus") by two of his former clients.[3] The reviews were negative and disparaged his work as an attorney.[4] Respondent posted responses to each of the reviews on Google Plus.[5]

One review, posted by T.S., mentions fees paid to Respondent and claims that Respondent did not adequately represent him.[6] The one-paragraph review opines that Respondent is the "worst attorney" in Denver, that he did not call the district attorney or present T.S.'s "side" to the prosecution, that Respondent took $3,500.00 and "did nothing," that Respondent lost his temper and called T.S.'s wife names, and that Respondent should be forced to terminate his law practice.[7]

Respondent responded to that review and addressed specific facts about that representation. He wrote:

> [T.S.] actually retained me twice, on the same case, in which he was charged with felony theft. He had been referred, to me, by a colleague, who is a former judge, deputy district attorney, mediator and private practitioner. After terminating my services, the first time, because I was unable to force the prosecutor to do his bidding, he came to realize that no lawyer has a magic wand, and rehired me on the case. As he had, before my first withdrawal, [T.S.] became nothing but abusive, demanding, insulting and offensive, and I decided to terminate my representation, as the result of his conduct. In order to earn my $3,500.00 disposition fee, I telephoned the district attorney, on numerous occasions but, as is common, among many prosecutors, the deputies never actually answered my call, and almost never returned it. It was

[2] *See* C.R.C.P. 251.1(b).
[3] Order Granting Complainant's Mot. for Summ. J. at 3 (Apr. 21, 2016).
[4] Order Granting Complainant's Mot. for Summ. J. at 3.
[5] Order Granting Complainant's Mot. for Summ. J. at 3.
[6] Ex. 1.
[7] Ex. 1.

> necessary to travel outside the Denver metropolitan area, multiple times, for hearings and other court proceedings. I litigated the motion that [T.S.] insisted that I file, i.e. to dismiss, for destruction of evidence, and prosecutorial misconduct. He was not even able to substantiate the alleged facts that he presented to me, in my struggle to prevail, upon the motion. As with all ethical lawyers, it is inherently inimical, to me, to engage in conduct so base as calling either my clients, or their spouses, "names." As for the practice of losing one's temper, I commend the reader to [T.S.'s] own "review," which constitutes nothing but defamation.[8]

A second review was ostensibly posted by a person with the first initial "D.," who claimed to be Respondent's former client.[9] That review, also just one paragraph in length, called Respondent one of the "worst attorneys" and asserted that he was late and unprepared for hearings, that he walked out of court before a hearing was over, and that he never used evidence given to him.[10] The review does not state the type of matter in which Respondent was representing D., nor does it mention the fees paid to him.[11]

Respondent responded to this review and addressed specific facts about D.'s representation:

> I never appeared late, for any court appearance, on behalf of [D.], and was always fully prepared, to conduct the business at hand. Logic and common sense dictate that, if I were to attempt to leave a hearing before the court had concluded it, the judge would, as it were, "have my head." No such thing occurred. Likewise, it is nonsensical that a lawyer would refuse to use relevant evidence helpful to his client, especially if it is "handed to him." [D.] cannot corroborate anything that she claims, because it did not happen. For all of the many hours that I spent, in vigorous defense of her, against felony assault, felony eluding of police, and driving under the influence of alcohol, [D.] paid me, with a $4,000.00 insufficient-funds check. She then committed two criminal offenses, by fabricating "affidavits," which were, purportedly, executed by former (and current) relatives, forging their signatures to them, then "notarizing" the forged signatures, when she was no longer commissioned, as a notary public. [D.'s] dishonest, fraudulent and criminal conduct speak for themselves.[12]

As established by the PDJ's order granting summary judgment, Respondent revealed substantial information relating to the representations of these two clients, without authorization and without permission, in violation of Colo. RPC 1.6(a). The PDJ reasoned that

[8] Ex. 1. This response is reproduced in its entirety, including grammatical errors.
[9] Ex. 1.
[10] Ex. 1.
[11] Ex. 1.
[12] Ex. 1. This response is reproduced in its entirety, including grammatical errors.

numerous pieces of information in Respondent's postings—including the nature of the underlying cases against his clients and how he was paid—certainly qualify as "information relating to the representation of a client."[13] It is irrelevant, the PDJ said, whether this information was already public: comment three to Colo. RPC 1.6(a) states that the rule "applies not only to matters communicated in confidence by the client but also to all information relating to the representation, whatever its source."[14]

The PDJ also rejected Respondent's defense premised on Colo. RPC 1.6(b)(6). That rule allows a lawyer to disclose information

> to the extent the lawyer reasonably believes necessary . . . to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client.

To interpret this exception, the PDJ looked to Colo. RPC 1.6, comment ten, which states: "Where a legal claim or disciplinary charge alleges complicity of the lawyer in a client's conduct or other misconduct of the lawyer involving representation of the client, the lawyer may respond *to the extent the lawyer reasonably believes necessary* to establish a defense."[15] In a similar vein, the PDJ noted, comment fourteen provides: "Paragraph (b) permits disclosure *only to the extent the lawyer reasonably believes the disclosure is necessary* to accomplish one of the purposes specified."[16]

---

[13] Colo. RPC 1.6(a); *see* ABA *Annotated Model Rules of Professional Conduct* at 98 (7th ed. 2011) (noting that a client's identity and billing-related information is subject to Rule 1.6).

[14] *See also In re Anonymous*, 654 N.E.2d 1128, 1129 (Ind. 1995) (concluding that a lawyer violated Rule 1.6 by disclosing information related to a client representation, even though the information "was readily available from public sources and not confidential in nature"); *Lawyer Disciplinary Bd. v. McGraw*, 461 S.E.2d 850, 860 (W. Va. 1995) ("[t]he ethical duty of confidentiality is not nullified by the fact that the information is part of a public record or by the fact that someone else is privy to it"); *In re Harman*, 628 N.W.2d 351, 360-61 (Wis. 2001) (concluding that a lawyer's dissemination of a client's medical records without her consent violated client-lawyer confidentiality, even though those records had been made a part of a medical malpractice action); ABA *Annotated Model Rules of Professional Conduct* at 97 (noting that the scope of information subject to Rule 1.6 is "extremely broad" and that "Rule 1.6 contains no exception permitting disclosure of information previously disclosed or publicly available"). *But see Hunter v. Va. State Bar ex rel. Third Dist. Comm.*, 744 S.E.2d 611, 620 (Va. 2013) (ruling that the First Amendment prohibits "information [] aired in a public forum," including information in a judicial proceeding, from being deemed subject to Rule 1.6(a)). Colo. RPC 1.6 also applies after a lawyer-client relationship has terminated. Colo. RPC 1.6 cmt. 18.

[15] (Emphasis added).

[16] (Emphasis added). Colo. RPC 1.6 comment 14 goes on to read: "Where practicable, the lawyer should first seek to persuade the client to take suitable action to obviate the need for disclosure. In any case, a disclosure adverse to the client's interest should be no greater than the lawyer reasonably believes necessary to accomplish the purpose."

The PDJ made the following findings:

> Here, even assuming that the timing of Respondent's postings was appropriate under Colo. RPC 1.6(b)(6), the Court determines as a matter of law that Respondent could not have reasonably believed it necessary to disclose the full range of information he posted in his Google Plus responses. The first review, ostensibly by T.S., opined that Respondent is a poor attorney who did not contact the [district attorney], who performed no services yet took $3,500.00, and who lost his temper and verbally assailed his wife. To respond to these assertions, it was in no way necessary for Respondent to publicize the nature of the criminal charges pending against T.S. The second review, ostensibly by D., also called Respondent a poor attorney and asserted that he was late and unprepared for hearings, that he left court during a hearing, and that he did not use evidence given to him. It again was unnecessary for Respondent to describe the criminal charges his client was facing, and it was even more gratuitous to allege that D. gave him an insufficient-funds check and that she fabricated affidavits. In both instances, it appears that Respondent disclosed his clients' criminal charges and other alleged misdeeds simply to embarrass and discredit the clients. The Court therefore concludes as a matter of law that Respondent violated Colo. RPC 1.6(a) by posting both Google Plus responses and that no exception under Colo. RPC 1.6(b) authorized his conduct.[17]

Testimony at the Disciplinary Hearing

Respondent began his testimony by describing at length his path to becoming a solo practitioner in Colorado. In short, Respondent, who has a natural aptitude for languages, pursued a Russian major at the University of Utah. But during his time there, he realized that a professorship in Russian was not his true calling, so he took a job in the law library and contemplated law school. After earning his undergraduate degree, he enrolled at the University of North Dakota School of Law, from which he graduated in 1992. He then clerked for former Justice Herbert L. Meschke of the North Dakota Supreme Court. After the clerkship Respondent did not know where to go, but on the advice of a law school dean who raved about Denver, Respondent traveled here, talked to practicing lawyers, and decided to relocate. After a short stint for another lawyer who handled primarily insurance subrogation claims, Respondent resolved to hang his own shingle in 1995.

Even from his first day in law school, Respondent knew that "something was happening," that "something mentally was wrong." During his first year of law school, he called a suicide prevention hotline. For the first five years after moving to Colorado he met

[17] Order Granting Complainant's Mot. for Summ. J. at 6-7.

with a licensed clinical social worker ("LCSW"), who, he said, failed to correctly identify his underlying issue and never referred him to a psychiatrist. The LCSW later left Denver, and for the next several years Respondent went "from physician to physician to physician," receiving "misdiagnose[s]" and being put on "useless" medications. During that time, he conceded, he was "making mistakes" in his practice, including missing filing deadlines. Finally, he found a psychiatrist who diagnosed him with bipolar disorder in 2002.[18] The disorder eventually "flared into its full manifestation," and he was transferred to disability inactive status on May 2, 2008, where he remained until he was reinstated by stipulation on April 14, 2011.[19]

In 2013, T.S., an itinerant preacher hired by churches in Colorado and other states to deliver sermons, retained Respondent to help him in a criminal matter. The representation ended by the middle of that year, however. T.S. was dissatisfied and posted his negative review on Avvo.com. He also created his own website, www.lanceisaac.com, to air his grievances. T.S. testified that he put up his website and posted the review to "protect the citizens of Denver" and to "warn the community about [Respondent's] behavior" because, in his estimation, Respondent is "not fit to be a lawyer." T.S.'s review also appeared on other websites, like Google Plus, ripoffreport.com, and complaintsboard.com; T.S. said that he imagined—though he conceded he did not know for sure—that someone had replicated his review verbatim and transferred it to those other sites.

According to Respondent, he received a call from a friend in December 2013, asking whether he had seen the postings from T.S. and D. on ripoffreport.com. But Respondent apparently took no action until sometime in 2014, after a search engine optimization company that he had hired discovered the reviews on Google Plus and recommended that he respond to the postings. He agreed to post responses "not solely" for his own benefit, he rationalized, but also to give anyone who saw the reviews "an opportunity to assess for themselves the credibility of the postings." He testified that his intent "was never malicious at all." "I was trying to save my practice, to the extent that I could," he said.

Respondent recalled that he asked the optimization company to pen a response but the company turned the task back over to him. Yet he also recalled that he insisted he have the final say on the content of the response "because I knew I could not run afoul of 1.6." Indeed, Respondent repeatedly stressed that he had Colo. RPC 1.6 "in mind" when he drafted his responses, though he testified alternately that he "certainly read" the rule and that he was "not sure" if he reviewed it. He attributed his posting to a "mistake in misapprehending [sic] the definition of 'relating to the representation of a client,'" explaining that he did not grasp that the phrase means "anything and everything that the lawyer comes into contact with."[20] It was an error and misunderstanding of the rule, he said,

[18] Ex. 6 at 0015.

[19] Respondent disclaimed any relationship between his conduct in this matter and his bipolar disorder.

[20] Respondent noted that he had interpreted Colo. RPC 1.6 as permitting a lawyer to disclose information relating to a client if that information was publicly known. His efforts to shoehorn his disclosures into this

a lapse borne out of failing to spend time reading case law or comments glossing the rule. "I have to take full responsibility for that," he acknowledged. The irony, he mused, is that over the course of his career colleagues have turned to him for advice about ethical dilemmas, and in rendering advice he has at times referred back to the text of rules or comments. "If there's one thing I'm good at," he commented, "it is research and writing and knowing the law."

T.S. was alerted to Respondent's online response by another lawyer. T.S. soon learned that Respondent had divulged that he had been charged with felony theft. T.S., who pleaded guilty to a misdemeanor and received a deferred sentence and probation, felt that, as a preacher, "his integrity ha[d] been very mishandled and misrepresented." T.S. also directly attributed a substantial decline in his income for the past year and a half to Respondent's "libelous statements": when churches learned of his felony theft charge, he claimed, they did not invite him to preach to their congregations, thus depriving him of approximately $1,500.00 per engagement. He said he has not worked since January 2015. At thirty engagements a year, T.S. estimated, he was stripped of $45,000.00 annually. He testified that he spent $10,000.00 to hire a company to remove Respondent's posting from the internet. T.S. also mentioned that Respondent had "stalked" his family to serve T.S. with a lawsuit related to his online postings. T.S. suffered a heart attack in July 2015 as a result, he insinuated, of Respondent's disclosures and later "badgering." T.S. is now on disability and is unable to work.

Respondent wholly dismissed as "absurd" T.S.'s claims of injury, arguing that it is farfetched to believe that churches enjoying longstanding relationships with T.S. would suddenly google T.S.'s name and discover Respondent's posting. T.S. told "quite a few minutes of nothing but lies," he maintained. Though Respondent acknowledged he had violated Colo. RPC 1.6, he also inveighed against T.S. and D., as well as the People, as "responsible for bringing me to where I am today." As regards his former clients, he remarked, "the universe brings these people to me. This isn't my first rodeo when it comes to sociopaths and psychopaths. I've represented several of them in my career." Concerning the People, he expressed outrage that they had initiated the investigation after going onto the web and finding his posts.[21] He ruminated that it was "not just unseemly" that the People had done so, but in fact "very reminiscent of Stalinist Russia, it's reminiscent of Nazi Germany. It's where we go out looking: where can we find a Jew? where can we find a homosexual? where can we find somebody to do something to?" He also complained that "as a result of what has happened on the internet my business has plummeted." "Once people start putting this kind of stuff out there about you it can end the whole game, and that's basically what's happened to me," he said.

---

exception are risible and, in any event, have already been rejected in footnote 33 to the PDJ's order granting the People's motion for summary judgment.

[21] The parties intimated that the People, rather than T.S. or D., commenced proceedings in this matter. *See* C.R.C.P. 251.9(a)(4).

Respondent testified that he did not respond to the People's motion for summary judgment because "it would have no effect. I already knew what the result would be." He has resigned himself to seeing "what else there is out there" for him and has made plans to launch a second career in the voice artistry business. He needs to move on, he noted, because he has "been beaten up enough to where [he is] out of energy [and] can't fight [the People] any longer," and because he is "terrified that another sociopath is going to walk through [his] door." "It's gotten really old, judge," he concluded.

III. SANCTIONS

The American Bar Association *Standards for Imposing Lawyer Sanctions* ("ABA *Standards*")[22] and Colorado Supreme Court case law guide the imposition of sanctions for lawyer misconduct.[23] When imposing a sanction after a finding of lawyer misconduct, a hearing board must consider the duty violated, the lawyer's mental state, and the actual or potential injury caused by the lawyer's misconduct. These three variables yield a presumptive sanction that may be adjusted based on aggravating and mitigating factors.

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

Duty: Lawyers' most important ethical obligations are those owed to clients, and the keystone of those obligations is the duty of loyalty. By disclosing confidential information, Respondent subverted that duty and thereby chipped away at one of the most fundamental elements of the attorney-client relationship: clients' trust in lawyers to protect their interests and preserve their confidential information, particularly information that is embarrassing or legally damaging.[24]

Mental State: The People urge us to find, and we do, that Respondent posted his online responses with a knowing state of mind. As a practicing attorney Respondent is presumed to know the governing law, including ethical rules.[25] His conscious decision not to glance at the comments to Colo. RPC 1.6 to ascertain the meaning of "information relating to representation of a client" in no way alters that presumption.

Injury: Although the People could not clearly or convincingly quantify the injury Respondent's online forays caused T.S. and D., it is certain that T.S. suffered reputational damage and that, at a minimum, D. may have experienced such harm. We decline to find that Respondent caused T.S. actual monetary injury, given the paucity of corroborating evidence and the intervening event—T.S.'s July 2015 heart attack—that changes the computation of T.S.'s earnings absent Respondent's misconduct. Nor can we find clear and convincing evidence linking Respondent's misconduct to that significant medical event. We do conclude, however, that the legal profession and members of the bar suffered actual

[22] Found in ABA *Annotated Standards for Imposing Lawyer Sanctions* (2015).
[23] *See In re Roose,* 69 P.3d 43, 46-47 (Colo. 2003).
[24] *See* Colo. RPC 1.6 cmt. 2.
[25] *In re Trupp*, 92 P.3d 923, 932 (Colo. 2004).

injury as a result of Respondent's postings, as those postings cause members of the public to question whether attorneys can be trusted to act in their best interests and to safeguard their information.

ABA *Standards* 4.0-7.0 – Presumptive Sanction

The presumptive sanction in this case is established by ABA *Standard* 4.22, which states that suspension is generally warranted when a lawyer knowingly reveals information relating to the representation of a client not otherwise lawfully permitted to be disclosed, thereby causing a client injury or potential injury.

ABA *Standard* 9.0 – Aggravating and Mitigating Factors

Aggravating circumstances include any considerations that may justify an increase in the degree of the sanction to be imposed, while mitigating circumstances include any factors that may warrant a reduction in the severity of the sanction.[26] The People have proposed that we apply a variety of aggravators and mitigators. As explained below, we apply five aggravating factors—two bearing great weight and one bearing little weight—and one mitigating factor.[27]

Prior Disciplinary Offenses – 9.22(a) & Remoteness of Prior Offenses – 9.32(m): Respondent has been disciplined on five other occasions.[28]

- In February 2003, Respondent was suspended from the practice of law for a period of six months, all stayed upon the successful completion of a two-year period of probation. That case arose from four separate client matters. In one matter, Respondent filed suit on behalf of a client but did not serve the defendants. The suit was dismissed, but Respondent did not inform the client and the statute of limitations expired. Respondent filed a notice of appeal without notice to or consent from his client, and he did not communicate with the client about the dismissal of the appeal. In a second matter, Respondent contracted with an expert witness but never paid the expert; the expert was forced to hire another attorney to negotiate a payment plan with Respondent. In a third matter, Respondent filed a complaint for a client but took no action to prosecute the case. In two other criminal matters, Respondent repeatedly failed to appear for hearings. That Respondent was suffering from a mental disability—diagnosed as bipolar disorder in 2002—that caused some of his misconduct was considered a factor in mitigation.[29] Respondent was ordered to comply

[26] *See* ABA *Standards* 9.21 & 9.31.
[27] Respondent did not present evidence specifically addressing any mitigating factor.
[28] *See* Ex. 6.
[29] Ex. 6 at 0015, 0018.

with all treatment recommendations made by his treating psychiatrist and attend regular psychotherapy sessions.[30]

- In June 2004, Respondent was publicly censured for failing to competently represent his clients by making errors in the content and timing of court filings and by failing to file the proper pleadings, documents, or fees. Respondent's health problems were deemed to have contributed to or caused his misconduct and were considered a mitigating factor.[31]

- In October 2007, Respondent was suspended for ninety days, with thirty days served and the remainder stayed upon the successful completion of a three-year period of probation. In that case, Respondent neglected two client matters, delaying resolution of those matters and resulting in a delay of the judicial proceedings and potential injury to both clients. Though the parties did not stipulate to Respondent's health as a mitigating factor in the case, they did agree that Respondent's serious mental impairment caused or contributed to his misconduct, and Respondent was ordered to undergo psychiatric monitoring.[32]

- In June 2011, Respondent was suspended for one year and one day, all stayed upon the successful completion of a three-year period of probation. In that case, Respondent failed to timely transmit his client's child support payments to opposing counsel, and his client received a contempt citation as a result. This, in turn, forced his client to incur costs and expenses in defending the contempt proceedings. Because these events preceded Respondent's transfer to disability inactive status in 2008, Respondent's mental health was considered in mitigation in the case, and he was ordered to seek counseling with a treating psychiatrist, who was also required to assess his alcohol use.[33]

- In July 2014—addressing misconduct that postdated his April 2011 reinstatement from disability inactive status—Respondent was publicly censured. Respondent represented the husband in a divorce matter. The divorce was contentious, and the wife was representing herself pro se. Respondent believed the wife had improperly served his client with a citation and order to show cause, which required his client to appear before the court. Respondent advised his client that service

[30] Ex. 6 at 0018-19.
[31] Ex. 6 at 0036, 0038.
[32] Ex. 6 at 0048, 0051.
[33] Ex. 6 at 0068-70.

> was invalid, and neither he nor his client went to the court hearing. The court issued an arrest warrant for his client, and his client was arrested. In violation of Colo. RPC 4.5(a), Respondent then sent the wife an email, threatening her with criminal charges if she did not move to quash the arrest warrant.

We are exceedingly troubled that Respondent has once again breached his ethical obligations, after having received public discipline in five other cases. But we also acknowledge that the events in the majority of these disciplinary cases took place before Respondent was transferred to disability inactive status, and most of the stipulations in those cases point to Respondent's mental health as a contributing cause of his misconduct. While the first four cases are thus not as germane to our analysis, we nevertheless accord that prior discipline average weight, given that Respondent was diagnosed with bipolar disorder in 2002 and was repeatedly ordered to undergo counseling and psychiatric treatment, yet he continued to engage in the same types of misconduct. We consider Respondent's July 2014 public censure as warranting significant weight due to its recency, its independence from mental health factors, and its resemblance, in part, to his misconduct here.[34]

Selfish Motive – 9.22(b): Respondent admits that he posted his responses because he was concerned that T.S.'s and D.'s reviews would sully his reputation and destroy his business. Though, as he attests, his responses may not have been intended maliciously or drafted specifically to damage his clients, his actions were fueled by self-interest.[35] We accord this factor a moderate amount of significance.

A Pattern of Misconduct – 9.22(c): Respondent posted disparaging responses to two separate client reviews. Although this demonstrates a budding pattern of misconduct, it does not warrant anything more than minimal weight because Respondent posted his responses during the same timeframe, and the People presented no evidence that he has responded to online postings since.

---

[34] *See In re* Jones, 951 P.2d 149, 152 (Or. 1997) (emphasizing the importance of applying this factor when there is similarity between the prior offense and the offense in the case at bar). As with the misconduct at hand, Respondent's discipline in July 2014 stemmed, in part, from his allegation that his antagonist (there, the client's wife) falsified an affidavit. More conceptually, the misconduct described in the July 2014 stipulation, as here, strikes us as rooted in Respondent's attitude of superiority and as aimed at bullying a nonrepresented party using his dominant position (here, his knowledge of confidential information and there, his standing and training as a lawyer).

[35] Interestingly, at least two commentators suggest that responding to online reviews is not only an ethical minefield but also may not actually be in lawyers' best interests. *See* Cassandra Burke Robertson, "Online Reputation Management in Attorney Regulation," 29 *Geo. J. Legal Ethics* 97, 100 (2016) (noting that retaliatory responses to online reviews are "economically irrational"); Mark J. Fucile, "Discretion is the Better Part of Valor: Rebutting Negative Online Client Reviews," 83 *Def. Couns. J.* 84, 88-89 (Jan. 2016) (cautioning that lawyers who write "petty" responses to online reviews "will likely reinforce the . . . negative review" and "fall into the trap of appearing thin-skinned and defensive").

Refusal to Acknowledge Wrongful Nature of Conduct – 9.22(g): We view this as a serious aggravating consideration. Respondent acknowledged that his postings ran afoul of Colo. RPC 1.6 and held himself accountable for failing to review the comments and case law construing that rule. But then he rejected outright the notion that T.S. had been harmed in any way, denied that he had revealed confidential client information, and disavowed ultimate responsibility for his misconduct, instead attempting to shift blame to his clients—calling them "psychopaths and sociopaths"—and the People—likening their self-initiated investigation to practices of "Stalinist Russia" and "Nazi Germany." These pronouncements shocked us and indisputably cement our view that Respondent feels no compunction about his misconduct or its impact on T.S. or D.[36] Indeed, though he lamented that his clients' negative reviews might devastate his practice, he never once recognized that his own postings might have a similar effect on their livelihoods or reputations.

Substantial Experience in the Practice of Law – 9.22(i): Respondent was admitted to the bar in 1993 and has practiced for most of the intervening time, so we consider his substantial experience as a lawyer a significant aggravating factor.

Full and Free Disclosure to Disciplinary Board or Cooperative Attitude Toward Proceedings – 9.32(e): In their hearing brief the People suggest that Respondent's misconduct should be mitigated by his cooperation in these proceedings, at least up until the time that they filed a motion for summary judgment. We decline to follow the People's recommendation, however, because Respondent did not respond to the People's motion for summary judgment—even after requesting an extension to submit a response—nor did he file any prehearing materials, including a hearing brief, as he was ordered to do.

Analysis Under ABA *Standards* and Case Law

The Colorado Supreme Court has directed hearing board members to exercise discretion in imposing a sanction and to carefully apply aggravating and mitigating factors.[37] We are mindful that "individual circumstances make extremely problematic any meaningful comparison of discipline ultimately imposed in different cases."[38] Though prior cases are helpful by way of analogy, hearing boards must determine the appropriate sanction for a lawyer's misconduct on a case-by-case basis.

As the People observe, the Colorado Supreme Court has not yet addressed the question of sanctions when a lawyer divulges information relating to a client in response to negative online reviews. Cases from other jurisdictions, however, provide a yardstick that may help us to determine appropriate discipline here.

---

[36] For these reasons, we refuse to accord Respondent any mitigating credit for remorse.

[37] *See In re Attorney F.*, 285 P.3d 322, 327 (Colo. 2012); *In re Fischer*, 89 P.3d 817, 822 (Colo. 2004) (finding that a hearing board had overemphasized the presumptive sanction and undervalued the importance of mitigating factors in determining the needs of the public).

[38] *In re Attorney F.*, 285 P.3d at 327 (quoting *In re Rosen*, 198 P.3d 116, 121 (Colo. 2008)).

A disciplinary board in Oregon suspended for ninety days a lawyer who revealed client confidences on a bar listserv, where two aggravators and three mitigators applied.[39] In Kansas, a lawyer was suspended for ninety days for disclosing confidential information, some of which was later published in a local newspaper, and for failing to represent his client's interests.[40] And in Wisconsin, a lawyer was suspended for sixty days on reciprocal discipline—based on sanctions imposed by the Illinois Supreme Court—for publishing a public blog containing confidential information about her clients and for failing to inform a court of a client's misstatement of fact.[41] By contrast, public censure was imposed in Georgia for an attorney's isolated violation of Rule 1.6 (and a communication violation) when just one aggravating factor and seven mitigating factors applied.[42] The attorney received not only a public reprimand but an order that she comply with recommended best management practices.[43] Likewise, an Illinois lawyer was publicly censured for posting an adversarial response to a negative Avvo review; there, counsel representing the Illinois Attorney Registration and Disciplinary Commission stipulated to applicability of four mitigating factors.[44]

Citing several of these cases, the People ask for a suspension, at a minimum, of ninety days. In our estimation, Respondent's misconduct warrants something more severe. Unlike the cases summarized above, Respondent has an extensive history of discipline, and at least some of that prior misconduct was neither brought about nor exacerbated by mental health issues. And unlike these cases, Respondent has failed to acknowledge the wrongful nature of his conduct or registered anything resembling remorse.

We reckon that the five aggravating factors—notably Respondent's prior discipline—counsel in favor of a meaningful period of suspension. To impose a ninety-day suspension, which is just half as long as the six-month served suspension that other jurisdictions treat as a baseline,[45] would be to trivialize his misconduct, which is amplified by significant aggravators. So too do we reckon that those same aggravating factors—notably Respondent's lack of remorse—call for a process of petitioning for reinstatement. To allow him to reenter the practice of law without some adequate assurance that he understands the gravity of violating clients' trust by breaching their confidences would be to abandon our role in protecting future consumers of legal services. For these reasons, we conclude

---

[39] *In Re Quillinan,* 20 DB Rptr. 288 (2006), summarized by the State Bar of Oregon in https://www.osbar.org/publications/bulletin/07jan/discipline.html.

[40] *In re Harding,* 223 P.3d 303, 310-11 (Kan. 2010).

[41] *In re Peshek*, 798 N.W.2d 879, 881 (Wis. 2011).

[42] *In re Skinner*, 758 S.E.2d 788, 789-90 (Ga. 2014).

[43] *Id*. at 790.

[44] *In re Tsamis*, No. 2013PR00095, Ill. Att'y Registration & Disciplinary Comm'n (Jan. 15, 2014), http://www/iardc.org/rd_database/rulesdecisions.html.

[45] Sister jurisdictions usually consider a six-month fully served suspension to be the baseline sanction where suspension is the presumptive sanction, with the length to be adjusted upwards or downwards from that baseline based on aggravators and mitigators. *See, e.g., In re Cummings*, 211 P.3d 1136, 1140 (Alaska 2009); *In re Moak*, 71 P.3d 343, 348 (Ariz. 2003); *In re Stanford*, 48 So.3d 224, 232 (La. 2010); *Hyman v. Bd. of Prof'l Responsibility*, 437 S.W.3d 435, 449 (Tenn. 2014); *In re McGrath*, 280 P.3d 1091, 1101 (Wash. 2012).

that Respondent should be suspended for six months, with the requirement that, should he wish to resume the practice of law, he petition for reinstatement under C.R.C.P. 251.29(c).

IV. CONCLUSION

Lawyers' disclosure of client confidences erodes the trust that undergirds the lawyer-client relationship. That Respondent even now fails to recognize this basic truth is disquieting, and leads us to impose a sanction that provides some reassurance that, before practicing law again, he appreciates that such misconduct is inimical to a lawyer's role of loyal advocate and defender. We therefore suspend Respondent for six months, with the requirement that he petition for reinstatement under C.R.C.P. 251.29(c) before resuming the practice of law.

V. ORDER

The Hearing Board therefore **ORDERS**:

1. **LANCE ELDON ISAAC**, attorney registration number **22918**, is **SUSPENDED FOR SIX MONTHS.** The suspension will take effect upon issuance of an "Order and Notice of Suspension."[46]

2. Should he wish to resume the practice of law, Respondent **MUST** petition for reinstatement pursuant to C.R.C.P. 251.29(c).

3. Respondent **SHALL** promptly comply with C.R.C.P. 251.28(a)-(c), concerning winding up of affairs, notice to parties in pending matters, and notice to parties in litigation.

4. Within fourteen days of issuance of the "Order and Notice of Suspension," Respondent **SHALL** comply with C.R.C.P. 251.28(d), requiring an attorney to file an affidavit with the PDJ setting forth pending matters and attesting, inter alia, to notification of clients and other jurisdictions where the attorney is licensed.

5. The parties **MUST** file any posthearing motion or application for stay pending appeal with the Hearing Board **on or before Friday, August 19, 2016**. Any response thereto **MUST** be filed within seven days.

6. Respondent **SHALL** pay the costs of these proceedings. The People **SHALL** submit a statement of costs **on or before Friday, August 12, 2016**. Any response thereto **MUST** be filed within seven days.

[46] In general, an order and notice of sanction will issue thirty-five days after a decision is entered pursuant to C.R.C.P. 251.19(b) or (c). In some instances, the order and notice may issue later than thirty-five days by operation of C.R.C.P. 251.27(h), C.R.C.P. 59, or other applicable rules.

DATED THIS 22nd DAY OF SEPTEMBER, 2016.
Nunc pro tunc to the 29th DAY OF JULY, 2016.

Original Signature on File
WILLIAM R. LUCERO
PRESIDING DISCIPLINARY JUDGE

Original Signature on File
DAVID A. HELMER
HEARING BOARD MEMBER

Original Signature on File
JERRY D. OTERO
HEARING BOARD MEMBER

Copies to:

Katrin Miller Rothgery Office of Attorney Regulation Counsel	Via Email k.rothgery@csc.state.co.us
Lance E. Isaac Respondent	Via Email lancelaw@msn.com
David A. Helmer Jerry D. Otero Hearing Board Members	Via Email Via Email
Christopher T. Ryan Colorado Supreme Court	Via Hand Delivery