

OFFICE OF THE PRESIDING DISCIPLINARY JUDGE OF THE SUPREME
COURT OF COLORADO

People v. Rymer

180 P.3d 443 (2007) · No. No. 06PDJ067 · Decided May 25, 2007

SUMMARY

The Colorado Office of the Presiding Disciplinary Judge disbarred Dewayne Dell Rymer for knowingly converting trust funds without authorization. Rymer transferred and used more than \$200,000 from a client’s family trust, made unauthorized loans to his son, and failed to account for additional funds. The order also required restitution of \$231,914.76 and payment of proceeding costs.

CASE DETAILS

COURT	Office of the Presiding Disciplinary Judge of the Supreme Court of Colorado
WRITING FOR THE COURT	William R. Lucero; Kathleen M. O'Brien; Ralph G. Torres
JURISDICTION	Colorado
DECIDED	May 25, 2007
DOCKET	No. 06PDJ067
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding in which the Office of Attorney Regulation Counsel charged Respondent with converting trust funds and violating Colo. RPC 8.4(c). After denying the People's motion for summary judgment, the Hearing Board conducted an evidentiary hearing and imposed sanctions.
STANDARD OF REVIEW	The allegations were required to be established by clear and convincing evidence.
PRECEDENTIAL VALUE	Published attorney disciplinary opinion

TOPICS

[trusts](#) [trustee duties](#) [breach of trust](#) [estate planning](#)

PRACTICE AREAS

[legal ethics and professional responsibility](#) [attorney discipline](#) [trusts and fiduciary duties](#)

QUESTIONS PRESENTED

1. Whether Respondent converted trust funds without authorization in violation of Colo. RPC 8.4(c).
2. Whether disbarment was the appropriate sanction for knowingly converting and misappropriating client or trust funds causing substantial injury.

HOLDINGS

1. Respondent violated Colo. RPC 8.4(c) by knowingly converting trust funds without authorization, including \$5,052.95 that was not deposited into the Trust account, \$217,195.00 withdrawn from the Trust corpus, and \$46,000.00 loaned to his son.
2. Disbarment was warranted because Respondent knowingly converted more than \$200,000 in trust funds, caused substantial injury, failed to make restitution, and presented no significant mitigating evidence.

KEY QUOTATIONS

“Disbarment is generally appropriate, absent significant evidence of mitigation, when a lawyer knowingly uses client funds without authority and causes injury.” (443)

“Knowing conversion or misappropriation of client money "consists simply of a lawyer taking a client's money entrusted to him, knowing that it is the client's money and knowing that the client has not authorized the taking."” (447)

“These facts demonstrate Respondent is a danger to the public.” (448)

FACTUAL BACKGROUND

Respondent created the Jerry K. Phelps Family Trust, designated himself trustee, and received assets and approximately \$165,052.59 to manage for the benefit of Jerry K. Phelps and his daughters. Over approximately three years, Respondent transferred or withdrew substantial trust funds, including funds used for his own purposes and loans to his son, without authorization. The Hearing Board found that Respondent's explanation that Phelps authorized the transfers was not credible and determined that Respondent owed the Trust approximately \$231,914.76.

PROCEDURAL HISTORY

The People filed a disciplinary complaint on October 11, 2006. The Hearing Board denied the People's motion for summary judgment but found certain affidavit facts undisputed under C.R.C.P. 56(d). Following a March 26, 2007 hearing, the Board found by clear and convincing evidence that Respondent converted trust funds and ordered disbarment, restitution, and payment of costs.

DISPOSITION

other

CASES CITED

- In re Roose, 69 P.3d 43, 46-47 (Colo. 2003)
- People v. Varallo, 913 P.2d 1, 10-11 (Colo. 1996)
- In re Fischer, 89 P.3d 817 (Colo. 2004)

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