

*People v. Kudla* No. 01PDJ063. 7/5/01. Attorney Regulation.

The Presiding Disciplinary Judge accepted the parties' Conditional Admission of Misconduct and suspended Respondent, Michael J. Kudla, from the practice of law for a period of ninety days with the full period of suspension stayed subject to conditions. The clients hired the respondent to assist them in the sale of their interest in real estate. The respondent set up an irrevocable charitable remainder unitrust ("trust") for the sale proceeds. Respondent drafted the document, naming himself as trustee. A portion of the funds placed in the trust were invested in loans to individuals. Respondent prepared the notes to the individuals. Although respondent advised the clients of the loans and the borrowers within a few months of the transactions, respondent did not disclose that two of the borrowers were co-officers or directors in corporations with the respondent, in which he had no financial investment. Respondent did not check credit references on the borrowers. Three of the four borrowers defaulted on the loans. At the time respondent provided services to the clients, he was on disability inactive status. Respondent's giving advice on the trust, drafting it and preparing the promissory notes violated Colo. RPC 5.5(a) and a violation of the order placing respondent on disability inactive status in violation of Colo. RPC 3.4(c). Respondent's engaging in investments for the trust, failing to check the creditworthiness of the borrowers, and failing to inform the clients that he had business associations with some of the borrowers from the trust violated Colo. RPC 8.4(h). At the time of the transaction, respondent suffered from physical and mental problems. Respondent was ordered to pay the costs of the proceeding.