***People v. Henry Alan Sand*. 21PDJ002. January 15, 2021.**

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Henry Alan Sand (attorney registration number 31850) for ninety days, all to be stayed upon the successful completion of a two-year period of probation, with conditions. The probation took effect January 15, 2021. The sanction took into account substantial mitigating circumstances.

Sand began working for a firm in 2003; per an agreement with the firm's owner, Sand was to take ownership of the firm at the end of 2019. Sand was always paid an hourly rate instead of a salary, plus 50 percent of any personal injury contingency fees. He was responsible for entering his own time into the firm's billing program, and he kept track of his time in three ways: writing his hours on legal pads and transferring them into the billing program; drafting a billing report to the firm's owner showing his hours worked; and providing a sheet of paper to the firm's accountant twice a month showing the number of hours worked. The firm calculated Sand's pay based on the forms he turned into accounting, rather than what the billing program or his reports showed, though in theory the three accounting forms should have been close to identical.

In 2019, the firm's owner reviewed payroll and noticed that Sand always recorded work with an even number of hours, going back to April 2017. The owner then compiled a spreadsheet showing that from April 2017 through December 2019 Sand had received significantly more in compensation than he should have. None of those fees were passed along to clients. When confronted with the spreadsheet, Sand admitted he had been overpaid, but he maintained that he did not owe the calculated amount and that he believed a reconciliation would occur, whereby any amount he owed would be settled when he took over the firm. Sand told the owner that the problem began when he became lax in preparing his billing reports and stopped tracking his hours closely in June 2019. Sand then produced newly prepared billing reports for June to December 2019. The reports still did not match his payroll paid for the same period, and they did not reflect the even hours of Sand's requests and payments. The owner and his financial manager reviewed the billing reports and payroll records and calculated that Sand had received a substantial overpayment. The firm then terminated Sand and demanded $27,000.00, which represented most of the overpayment. Sand paid the demanded amount.

Through this conduct, Sand recklessly violated Colo. RPC 8.4(c) (it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation).

The case file is public per C.R.C.P. 251.31.