***People v. Nitche S. Ward*. 16PDJ047. February 9, 2017.**

A hearing board disbarred Nitche S. Ward (attorney registration number 41073) from the practice of law. The disbarment took effect March 16, 2017.

After Ward entered into a disciplinary stipulation that would suspend her law license for two years, she filed a bankruptcy petition, knowing that she could not see the case to completion for her clients before her suspension took effect. Ward failed to properly notify the clients of her impending suspension, failed to protect her clients' interests, failed to adequately communicate with them about their case, made misrepresentations to her clients and the bankruptcy trustee, and disobeyed seven bankruptcy court orders directing her to disgorge her fees. Through this conduct, Ward violated Colo. RPC 1.3 (a lawyer shall act with reasonable diligence and promptness when representing a client); Colo. RPC 1.4(a)(2), (a lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished); Colo. RPC 1.5(b) (a lawyer who has not regularly represented a client shall communicate in writing the basis or rate of fees and expenses); Colo. RPC 3.4(c) (a lawyer shall not knowingly disobey an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists); Colo. RPC 8.4(c) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation); and Colo. RPC 8.4(d) (a lawyer shall not engage in conduct that is prejudicial to the administration of justice).

In another bankruptcy matter, which was ongoing when Ward entered into the stipulation for her suspension, Ward failed to appear at two bankruptcy hearings on her client's behalf, failed to inform her client about the status of the case, made misrepresentations to the client and the bankruptcy trustee, and knowingly violated four court orders directing her to disgorge her fees. Through this conduct, Ward violated Colo. RPC 1.3; Colo. RPC 1.4(a)(3) (a lawyer shall keep a client reasonably informed about the status of the matter); Colo. RPC 3.4(c); and Colo. RPC 8.4(c).

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:** NITCHE S. WARD	Case Number: **16PDJ047**
OPINION AND DECISION IMPOSING SANCTIONS UNDER C.R.C.P. 251.19(b)	

After Nitche S. Ward ("Respondent") entered into a disciplinary stipulation that would suspend her law license for two years, she filed a bankruptcy petition, knowing that she could not see the case to completion before her suspension took effect. She failed to properly notify the clients of her impending suspension, failed to protect her clients' interests, failed to adequately communicate with them about their case, made misrepresentations to her clients and the bankruptcy trustee, and disobeyed seven bankruptcy court orders directing her to disgorge her fees. In another bankruptcy matter, which was ongoing when Respondent entered into the stipulation for her suspension, Respondent failed to appear at two hearings, failed to inform her client about the status of the case, made misrepresentations to the client and the bankruptcy trustee, and knowingly violated four court orders directing her to disgorge her fees. This wide-ranging and serious misconduct, taken in conjunction with Respondent's similar prior misconduct, warrants disbarment.

I. PROCEDURAL HISTORY

On June 8, 2016, Alan C. Obye, Office of Attorney Regulation Counsel ("the People"), filed a complaint against Respondent. The complaint contained twenty-four claims for relief based on Respondent's conduct in multiple client matters. Although Respondent's answer was due on June 29, 2016, she did not respond until July 11, 2016, when she contemporaneously filed a motion for extension of time. William R. Lucero, the Presiding Disciplinary Judge ("the PDJ"), set a three-day hearing for December 7-9, 2016.

On July 19, 2016, the PDJ ordered Respondent to file, within three days, a notice containing her current contact information.[1] When Respondent did not comply, the PDJ again ordered her to provide the same information by July 29, 2016, warning her that if she did not abide by the order she could face sanctions.[2] Respondent did not obey that order, either. Accordingly, the PDJ sanctioned Respondent, ordering that *Standard* 9.22(e) (bad faith obstruction of the disciplinary proceeding) of the American Bar Association *Standards for Imposing Lawyer Sanctions* ("ABA *Standards*") would apply in the sanctions phase of this proceeding if Respondent were found to have engaged in misconduct.[3]

On August 19, 2016, Respondent submitted her contact information, and also requested that the PDJ extend her deadline for responses and replies by thirty or forty days. The PDJ denied that request.

The People filed a "Motion for Partial Summary Judgment" on October 12, 2016. Respondent thereafter filed a response, along with an affidavit in support, on November 10, 2016. The People submitted a reply seven days later.

On November 14, 2016, the PDJ granted Respondent's request for an extension of the discovery cutoff date, allowing Respondent additional time—until November 23, 2016—to disclose her unidentified discovery items to the People. The PDJ also extended the deadline for prehearing materials until November 28, 2016. The following week, on November 22, 2016, the PDJ granted the People's motion to allow four witnesses to testify by telephone at the disciplinary hearing, granted Respondent's motion to call six witnesses by telephone, and denied Respondent's request to attend and to testify at her own hearing by telephone.

On November 29, 2016, the PDJ granted the People's partial motion for summary judgment as to Claims I-X of their complaint but denied summary judgment on Claim XI. That order converted the scheduled three-day hearing to a one-day hearing on the sanctions, and placed in abeyance the remaining claims of the People's complaint pending resolution of the hearing on the sanctions. On the same day under separate order, the PDJ also denied Respondent's third motion to continue the hearing.

On December 5, 2016, Respondent renewed her motion to attend the hearing by telephone, citing child-care issues, financial constraints, and health concerns, which she said would make it difficult for her to travel from her home in Georgia to Colorado. The PDJ granted the motion over the People's objection, noting that Respondent's participation at the hearing by telephone would be far preferable to no participation at all.

At the hearing on December 7, 2016, the PDJ, along with attorneys Mark Earnhart and Mickey W. Smith, presided as members of the Hearing Board. Obye represented the People,

[1] Order Granting Respondent's Mot. for Extension of Time to File an Answer at 2 (July 19, 2016).
[2] Scheduling Order at 9 (July 26, 2016).
[3] Found in ABA *Annotated Standards for Imposing Lawyer Sanctions* (2015).

and Respondent attended by telephone. During the hearing, the Hearing Board considered the People's exhibit 1 and heard testimony from Linda Milender and Respondent.

After the disciplinary hearing ended, Respondent submitted a "Correction of Testimony." In making our findings here, the Hearing Board does not rely on that filing, which is in essence a presentation of new argument or testimony.

II. FACTS AND RULE VIOLATIONS

Respondent took the oath of admission and was admitted to the bar of the Colorado Supreme Court on September 8, 2009, under attorney registration number 41073. She is thus subject to the jurisdiction of the Colorado Supreme Court and the Hearing Board in this disciplinary proceeding.[4]

Established Facts and Rule Violations[5]

Milender Matter

Linda and James Milender, a couple who were considering filing for bankruptcy, contacted New York company Bknet. The Milenders paid BKnet $1,200.00, and BKnet arranged for Respondent to represent the Milenders in their bankruptcy matter. BKnet gave Respondent the Milenders' money for the representation. Though the Milenders never met Respondent in person, Respondent spoke with the Milenders on the phone at least two times, and the Milenders understood that Respondent would be their bankruptcy attorney. The Milenders never signed a fee agreement with Respondent. Nor did Respondent give them a written statement of the basis or rate of her fee.

On January 30, 2015, the PDJ approved Respondent's conditional admission of misconduct and suspended her for two years. The effective date of Respondent's suspension was March 6, 2015. Respondent did not tell the Milenders that she would be suspended, that she could no longer represent them, or that they needed to hire new counsel.

On February 16, 2015, Respondent filed a Chapter 7 bankruptcy petition on the Milenders' behalf. That same day, she applied to pay the Chapter 7 filing fee in installments. The Milenders gave Respondent a check for the total amount of their filing fees. Respondent's "Disclosure of Compensation" indicates that her $750.00 fee included "[n]egotiations with secured creditors to reduce to market value; exemption planning; [and] basic ch[apter] 7 services," but excluded "[r]epresentation of the debtors in any

[4] *See* C.R.C.P. 251.1(b).

[5] Unless otherwise noted, the established facts and rule violations described in this section of the opinion are drawn from the PDJ's "Order Granting in Part Complainant's Partial Motion for Summary Judgment" issued on November 29, 2016. The factual recitation in that order contains voluminous footnotes, which the Hearing Board excises here for clarity and brevity.

dischargeability actions, judicial lien avoidances, relief from stay actions or any other adversary proceeding[,] reaffirmation agreements; [and] avoidance of liens."

Respondent knew at the time she filed the petition and the disclosure of compensation that she would be suspended and unable to represent the Milenders after March 6, 2015.

On February 18, 2015, the court ordered the Milenders to make four installment payments in 2015: on March 2, March 30, May 11, and June 16. The meeting of creditors was scheduled for March 13, 2015. Respondent did not tell the Milenders that she would be suspended at the time of this meeting and could not represent them then.

On March 13, 2015, fifteen minutes before the scheduled meeting of creditors, Respondent emailed Chapter 7 trustee Jared Walters stating:

> Unfortunately,
>
> I am unable to represent the clients today. I am looking for another attorney to take over. Please reschedule the hearing for a later date.
>
> I have informed the clients[.]

She also called the Milenders that same morning and advised them that the meeting had been cancelled because someone was "sick." Respondent told Walters in a separate email that "I have to coordinate with the new attorney on the case." Respondent did not tell Walters that she could not attend the meeting of creditors due to her suspension.

The meeting of creditors was continued to later in March 2015. On March 17, 2015, the Milenders' case was dismissed for nonpayment of fees. That same day, Respondent emailed Walters, noting that she had mailed the Milenders' bankruptcy payment because she was unable to file it electronically, and stating, "I am unable to continue to represent them on the case, however you can have the case reinstated once the payment is received." Walters replied that reopening the case would be the responsibility of the debtors or their new counsel.

On March 20, 2015, U.S. trustee Joanne Speirs moved to reopen the case and for an order directing Respondent to show cause why disgorgement of fees, civil penalties, and other relief should not be ordered. In that motion, Speirs alleged that Respondent knew when she filed the Milenders' case that she could not appear at the meeting of creditors or complete their case; that she knew or should have known that her ability to file electronically would be terminated upon her suspension; and that her conduct caused the Milenders' case to be dismissed. Both of Speirs's motions were granted, and the court issued a show cause order.

On April 13, 2015, Respondent responded to the show cause order. In that response, she blamed the Milenders for the case's dismissal, claiming that they sent her a check, not a

money order, which had to be mailed back to them; and that even before the U.S. Trustee had gotten involved Respondent had made arrangements to have the case reinstated, "despite the fact that the case was dismissed due to the debtor's own conduct."

The court held an evidentiary show-cause hearing on May 29, 2015. Respondent appeared at the hearing and testified. After the hearing, the court ordered Respondent to disgorge fees of $750.00 by June 19, 2015, payable to the Milenders and mailed to trustee Speirs. The court also ordered Respondent to pay additional sanctions of $1,000.00 for "her knowing, willful and deliberate misconduct in relation to this case." She was to pay the $1,000.00 to the Milenders by mailing it to Speirs by September 25, 2015.

On June 12, 2015, the court imposed sanctions on Respondent and her law firm, and required disgorgement of fees. In that order, the court found, in part:

> Evidence compelling and overwhelming that [Respondent's] professional misconduct is one of the most egregious, continuing patterns that this Court has ever seen.
> . . .
> Despite her previous admissions of misconduct before the Supreme Court, State of Colorado, [Respondent's] pattern of misconduct has been continued and has been experienced by this Court.
> . . .
> The evidence presented by the UST has been unrefuted by [Respondent]. Although [Respondent] vigorously opposes the Motion with arguments and statements, the Court did not find her recitation of the record credible.

The court made the following additional findings:

- In her response to the order to show cause, Respondent denied having received $750.00 from her clients or having agreed to render legal services for all aspects of the bankruptcy; however, the "Disclosure of Compensation of Attorney for Debtor(s)" filed and certified by Respondent disclosed that she had received $750.00 and agreed to provide the necessary services. Respondent produced no evidence that indicated otherwise.

- Respondent filed the Chapter 7 case after she had been suspended; Ms. Milender testified that she and her husband did not enter into a fee agreement with Respondent; Respondent did not disclose to them that she had been suspended and could not conclude their case; she did not advise them that they needed to obtain another attorney; and she did not go through the bankruptcy documents with them by phone or in person.

- Ms. Milender testified that Respondent informed her by telephone on the morning of the meeting of creditors that "the meeting was cancelled because someone was sick"; Respondent notified the Chapter 7 Trustee, Jared

Walters, just fifteen minutes before the meeting was to start that the Milenders would not be appearing; and Respondent's "incompetence and lack of diligence caused the Debtors' case to be dismissed. As is typical of [Respondent's] misconduct, she attempted to cast blame on the Debtors."

- Ms. Milender testified that they would have paid the filing fee in full, but Respondent or someone from her office insisted they pay the filing fee in installments; it was clear from the court's order granting payment of the fee in installments that Respondent's suspension would take effect before all payments had been made; and Respondent should have known that once she was suspended her ability to pay the Milenders' filing fee as an "electronic filer" would be terminated.

- Ms. Milender testified that she first became aware of Respondent's suspension at the continued meeting of creditors; Ms. Milender had received a letter from Respondent telling her that she was resigning, but she did not "really understand the letter"; Respondent "knew of her predicament with [the People] and knew at the time of her agreement and stipulation that she could not fulfill her obligations to these Debtors and her other unsophisticated clients"; and that "similar to other cases, [Respondent] demonstrates no remorse for what she has done to these Debtors or others. She merely provides excuses and accusations against everyone, including the Debtors, the UST and the Court. Everyone is to blame except herself."

The court concluded by ordering Respondent to disgorge the $750.00 fee paid by the Milenders by June 19, 2015, and to pay the Milenders the additional $1,000.00 sanction by September 25, 2015.

On August 19, 2015, the court held another nonevidentiary hearing to consider Respondent's compliance with its order. There, the court ordered Respondent to pay an additional sanction of $1,000.00 by September 21, 2015, payable to the Faculty of Federal Advocates. The court imposed this added sanction because of Respondent's "continued, knowing, willful and deliberate misconduct." The court issued an order after the hearing, noting that Respondent had previously supplied an inaccurate mailing address to the court. Also in that order, the court stated that it "made additional findings regarding [Respondent's] lack of respect toward this Court, her continued lack of credibility, and her continued and deliberate failure to comply with orders of this Court." On August 21, 2015, the court further ordered Respondent to pay the Milenders' successor counsel, Douglas Larson, $1,327.50 in attorney's fees by September 21, 2015.

On October 2, 2015, the court issued another order to show cause to determine why Respondent had failed to comply with the court's previous orders. On October 18, 2015, the court held a third nonevidentiary hearing by telephone. The order issued after this hearing demonstrate that Respondent dropped off the phone conference line on two separate occasions and did not reconnect the second time. The court found that Respondent was in

non-compliance with the court's order issued July 14, 2015, as well as the order issued at the hearing held on August 9, 2015. The court further ordered that "for [Respondent's] non-compliance with the various orders of this Court, and based on her continuing, knowing, willful, deliberate, and aggravated misconduct in this case, a new and additional sanction of $1,000.00 is hereby assessed against [Respondent] and in favor of Douglas Larson."

The court issued yet another order on October 23, 2015, entering judgment against Respondent and in favor of Larson. In that order, the court ordered Respondent to pay all previous amounts owed plus an additional $1,000.00 to Larson no later than November 4, 2015.

The court held a fourth hearing on November 25, 2015, to again examine Respondent's noncompliance with its orders of July 14, August 19, and October 14, 2015. Respondent failed to appear. At the hearing, the court ordered her to pay an additional sanction to the Milenders of $2,000.00 (representing $100.00 per day from November 5 to November 24, 2015). The court also sanctioned Respondent $300.00 per day, beginning November 25, 2015, until she contacted the court and the U.S. Trustee.

On December 15, 2015, the court held another hearing to consider Respondent's failure to comply with the court's previous four orders. This time, Respondent appeared by telephone. At that hearing, the court found that she had violated its previous orders and ordered her to pay the Milenders $3,000.00 as a sanction (representing $300.00 per day multiplied by twenty days of noncompliance from November 25 to December 14, 2015). During that hearing, Respondent gave the court a new phone number and email address but refused to provide a current mailing address. The court told her that it would continue to use her previous mailing address.

On February 24, 2016, the court held a final hearing on Respondent's continued noncompliance with its orders. And on March 14, 2016, the court entered a "Final Judgment" incorporating the previous orders and judgments and ordering, in part, the following:

> Final judgment is entered in favor of the Faculty of Federal Advocates and against [Respondent] in the principal amount of $1,000.00 plus interest . . . accruing from August 21, 2015.
>
> Final judgment is entered in favor of Douglas E. Larson and against [Respondent] in the principal amount of $1,000.00 plus interest . . . accruing from October 14, 2015.
>
> Final judgment is entered in favor of debtors James Arthur Milender and Linda Ann Milender and against [Respondent] in the principal amount of $18,850.00 plus interest . . . accruing from February 24, 2016.

To date, Respondent has made no payments to the Milenders, Larson, the Faculty of Federal Advocates, or the U.S. Trustee or otherwise complied with the court's orders. The Milenders were forced to hire a new attorney to complete their bankruptcy case.

In his order granting partial summary judgment, the PDJ concluded that Respondent had violated six Rules of Professional Conduct in the Milender matter:

- Colo. RPC 1.3, which provides that a lawyer shall act with reasonable diligence and promptness when representing a client. The PDJ found that Respondent's failure to promptly notify the Milenders of her suspension—either before or after her suspension took effect—was unreasonable.

- Colo. RPC 1.4(a)(2), which provides that a lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished. The PDJ concluded that Respondent contravened this rule when she agreed to assist the Milenders with their Chapter 7 bankruptcy and when she filed a petition on their behalf on February 16, 2015, yet did not tell them that she would be suspended in less than three weeks and thus would be significantly limited in assisting them to accomplish their objectives or complete their case.

- Colo. RPC 1.5(b), which states that when a lawyer has not regularly represented a client, the lawyer shall communicate in writing the basis or rate of fees and expenses. The PDJ ruled that the undisputed facts showed Respondent neglected to provide the Milenders with a fee agreement or other written statement of the basis or rate of her fee.

- Colo. RPC 3.4(c), which prohibits a lawyer from knowingly disobeying an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists. The PDJ determined that Respondent transgressed this rule by knowingly disobeying seven bankruptcy court orders to disgorge fees and to pay sanctions.[6]

- Colo. RPC 8.4(c), which forbids dishonest conduct. The PDJ concluded that Respondent violated this rule in two ways: first, she misrepresented to the Milenders that the meeting of creditors on March 13, 2015, was continued because someone was sick, rather than because her license to practice law had been suspended; and second, she failed to tell both the Milenders and the U.S. Trustee that she could not appear at the meeting due to her suspension.

- Colo. RPC 8.4(d), which precludes a lawyer from engaging in conduct that is prejudicial to the administration of justice. The PDJ concluded that summary

[6] The PDJ found that Respondent failed to obey the bankruptcy court's orders dated May 29, June 12, August 19, August 21, October 23, and December 15, 2015, and its order dated March 14, 2016, requiring her to disgorge fees and to pay sanctions.

judgment was appropriate on this claim because Respondent failed to obey the bankruptcy court's numerous orders requiring her to disgorge her fees and to pay sanctions. Her failure to do so resulted in numerous sanctions hearings and a waste of the court's time, subverting the court's processes and frustrating the interests of justice.

Wilkins Matter

Davitta Wilkins hired Respondent to represent her in a Chapter 7 bankruptcy for a sum of $750.00. On January 5, 2015, Respondent filed a Chapter 7 bankruptcy petition on behalf of Wilkins. Also on that day, Respondent filed a "Disclosure of Compensation of Attorney of Debtor" in the amount of $750.00. The court scheduled the meeting of creditors for January 30, 2015.

On January 22, 2015, someone from Respondent's office emailed the Chapter 7 Trustee, Jeffrey Weinman, requesting a continuance of the meeting of creditors. Weinman agreed to continue the meeting until February 27, 2015, at 8:00 a.m. Five days later, Respondent's paralegal sent an email to Weinman, confirming the new meeting date.

On January 30, 2015, Wilkins appeared for the meeting of creditors and advised Weinman that Respondent had not notified her that the meeting had been rescheduled. That same day, the PDJ issued an order in case number 13PDJ088, suspending Respondent for two years, effective March 6, 2015.

On February 27, 2015, Respondent emailed Weinman four minutes before the meeting of creditors was to begin, informing him that her car had flipped in the snow and she could not attend the meeting. Weinman replied, indicating that he could reschedule the meeting for March 13, 2015, at 8:30 a.m. Respondent did not respond to Weinman's email. Wilkins did not appear for the meeting on February 27, 2015, because Respondent had never informed her of the meeting.

On March 2, 2015, Weinman emailed Respondent, asking her again whether the March 13 date was acceptable. Respondent replied that the date was fine for the meeting. Respondent did not inform Weinman or Wilkins that she was suspended from the practice of law and could not appear for the meeting on March 13. On March 13, 2015—twelve minutes before the start of the meeting—Respondent emailed Weinman, advising him only that she was not allowed to represent Wilkins at the meeting and that she was looking for another attorney to appear for Wilkins. She also sought another continuance of the creditors meeting. Later that day, Respondent again emailed Weinman, this time telling him that she had been suspended on March 6, 2015. The meeting of the creditors was rescheduled for April 10, 2015.

Also on March 13, 2015, Wilkins filed a handwritten letter with the court, stating as follows:

> My name is Davitta A Wilkins I was here for a meeting with the Trustee for Bankruptcy and my attorney didn't come this is the third time that she miss Ward didn't show or cancel
>
> Please advise her law office of this inexcusable communication. I don't know what I'm to do at this point please contact me with instructions.

On March 26, 2015, the court ordered Respondent to refund Wilkins's fee due to her failure to appear at three scheduled creditor meetings and her failure to notify the court of her suspension and her consequent inability to continue to represent Wilkins. The court also ordered Respondent to disgorge Wilkins's fees of $750.00 by April 10, 2015. Respondent was further ordered to file a status update by April 10, 2015, discussing her compliance with the court's order to disgorge fees or to otherwise show cause why further sanctions should not be ordered for her failure to comply.

On April 1, 2015, Respondent moved to reconsider the court's order to refund Wilkins's fee. Five days later, Weinman received an email from Respondent confirming the April 10, 2015, date for the continued meeting of the creditors. Wilkins did not appear for the meeting on April 10, 2015, because she did not know about it. Attorney Marguerite Carr, however, appeared to represent Wilkins at Respondent's behest.

On April 13, 2015, Weinman sent Wilkins a letter advising her that he had again continued the meeting of the creditors, this time to May 22, 2015. The next day, Weinman received an email from Respondent telling him that Wilkins forgot about the meeting on April 10, 2015, and requesting another continuance. Weinman responded, informing Respondent that he had already told Wilkins that the meeting was continued.

The court received a handwritten note from Wilkins on April 24, 2015, stating that she thought Respondent should be required to refund her fee due to her failure to notify her of three separate court dates.

On May 12, 2015, the court held a hearing on the fee disgorgement issue. There, the court ordered Respondent to refund Wilkins $750.00 and to file a certificate of compliance with its order no later than May 30, 2015. The court told Respondent that if she failed to comply she would be sanctioned $100.00 per day, commencing June 1, 2015.

During the meeting of the creditors on May 22, 2015, attorney Marguerite Carr appeared to represent Wilkins, who did not know who Carr was or why she was present. On May 26, 2015, Carr filed a disclosure of compensation, which contained the following information: Carr fills in for attorneys on a contract basis and is paid by the attorney, not the client; on March 13, 2015, Respondent contacted Carr and asked her to cover Wilkins's meeting of the creditors on April 10; Carr is not associated with Respondent's firm; Carr agreed to cover the meeting; on the evening of April 9, 2015, Respondent emailed Carr relevant documents and Wilkins's phone number; Carr appeared for the April 10 meeting, and Wilkins was not present; Carr phoned Wilkins, who said that she had not heard from

Respondent in weeks and had not been advised of the time and place of the meeting or that Carr would be representing her at the meeting; and Wilkins also told Carr that Respondent sent her a letter indicating that she was no longer an attorney. Carr relayed this information to the court on the record.

After making a record, Carr called Wilkins, advised her that she could not undertake her representation going forward, and told her to hire new counsel. Carr then wrote to Respondent conveying what had occurred at the meeting and advising her to contact the U.S. Trustee. Carr also sent Respondent a $75.00 bill for her services. On April 18, 2015, Respondent asked Carr to cover the meeting of creditors on May 22, 2015. Carr agreed for a fee of $75.00. Respondent paid Carr $150.00 in cash on the evening on May 21, 2015.

Carr appeared for the meeting on May 22, 2015, where she met with Wilkins. Respondent had not told Wilkins that Carr would represent her at the meeting. Wilkins told Carr that the U.S. Trustee had informed her about the meeting.

On June 1, 2015, Respondent moved to reconsider the court's order directing her to disgorge fees. In the motion, she claimed to have paid $150.00 to Wilkins. The motion was denied on June 8, 2015. The court also again ordered Respondent to comply by June 22, 2015, with its order dated May 12, 2015. Respondent did not comply.

On July 14, 2015, the court *sua sponte* entered a show cause order and set a nonevidentiary hearing for August 19, 2015, based on Respondent's failure to comply with the court's two previous orders to disgorge Wilkins's fees. Respondent responded on August 18, 2015, claiming that she did not receive the show cause order until August 31 [sic]. She also maintained that: the court was using an incorrect address; she had credited Wilkins $250.00 and sent Carr a check for $150.00, leaving a balance owed of $350.00; she had mailed Wilkins a $350.00 check on June 22, 2015; she had attempted to contact Wilkins thereafter because the check was never cashed; she had cancelled the check on August 3, 2015; Wilkins told Respondent she had received the check and cashed it over a month prior; and Wilkins told her that she had been on vacation and that is why she did not return Respondent's calls. Respondent also stated that her "belief is that Ms. Wilkins cashed the check before it was cancelled; and that she now has recovered the total of $750 . . . . Thus far Ms. Wilkins has not told [Respondent] that she needed another check."

The court held the hearing on August 19, 2015, and ordered the U.S. Trustee to contact Wilkins before September 8, 2015, to determine whether Respondent had paid her. On August 25, 2015, the U.S. Trustee informed the court that Respondent had not paid Wilkins.

The court held a second nonevidentiary hearing on October 14, 2015. At that hearing, the U.S. Trustee and Wilkins both informed the court that Respondent had not disgorged fees, and Respondent made a statement to the court. The court found that Respondent failed to comply with its orders issued on May 12, June 8, and August 19, 2015, and assessed

additional sanctions against Respondent for a total of $11,100.00 (reflecting $100.00 per day for eleven days of noncompliance as of June 23, 2015).

On October 23, 2015, the court entered judgment against Respondent for $11,100.00. Respondent has not paid any of this judgment.

The PDJ's order granting partial summary judgment established that Respondent violated four Rules of Professional Conduct in the Wilkins matter:[7]

- Colo. RPC 1.3, by failing to appear at two of Wilkins's hearings and failing to explain to Wilkins the reason why she did not appear.

- Colo. RPC 1.4(a)(3), which provides that a lawyer shall keep a client reasonably informed about the status of the matter. The PDJ concluded that Respondent violated this rule when she failed to notify Wilkins that the meeting of creditors had been rescheduled and failed to inform Wilkins of her suspension. Also, Respondent never told Wilkins who Carr was or why Carr attended the two meetings of creditors.

- Colo. RPC 3.4(c), by knowingly violating at least four bankruptcy court's orders: those dated March 26, May 12, June 8, and October 23, 2015.

- Colo. RPC 8.4(c), by failing to alert Wilkins that her law license had been suspended and that she therefore could not appear at the meeting of creditors on March 13, 2015, and by misrepresenting to trustee Weinman that Wilkins had forgotten about the meeting of creditors on April 13, 2015, when in fact it was Respondent who had neglected to inform Wilkins about the meeting.

Testimony at the Disciplinary Hearing

At the disciplinary hearing, Respondent provided personal background about her education, her experience, and the many challenges she has faced over the past decade. We preface our recitation of her testimony with a note that we do not find Respondent credible. We need only repeat the finding of the Milender bankruptcy court: Respondent "merely provides excuses and accusations against everyone . . . . Everyone is to blame except herself."

Respondent testified that she was raised in North Carolina by a mother "addicted to crack" and a father who spent some portion of her childhood in prison. She attended North Carolina Central University as a scholarship student who had ranked among the top two percent of applicants in science and math. Graduating with honors, she later matriculated at

[7] The PDJ declined to enter summary judgment on the People's Claim XI, which alleged that Respondent prejudiced the administration of justice in the Wilkins matter in violation of Colo. RPC 8.4(d). On the People's motion, the PDJ dismissed Claim XI of the complaint on December 13, 2016.

the University of Denver School of Law ("DU"), where she was also awarded a scholarship. She testified that while at DU, she was elected president of the Black Law Students' Association, recognized as a "top performer[]" at the Hoffman Mock Trial Cup, and honored as a member of one of the top six teams in the statewide trial advocacy competition.

Before practicing law, Respondent held a variety of positions in which, she said, she endeavored to "help communities that couldn't help themselves." Those roles included legislative assistant for the North Carolina General Assembly, national field organizer for the National Organization of Women, and international human rights worker in Kenya. During law school, she externed for Judge Wiley Daniel of the U.S. District Court for the District of Colorado, clerked for the Fourth Judicial District in Colorado Springs, and interned with the law firm BakerHostetler and with the Rocky Mountain Survivor Center.

After being licensed in 2009, Respondent opened her own firm. She explained that she wanted to help her clients break "free" of the "criminal/industrial complex" and the "financial/industrial complex," and to "fight the financial revolution." She received several accolades for her efforts, she said, among them National Sorority Businesswoman of the Year and one of the Nation of Islam's Entrepreneurs of the Year.

Respondent said that notwithstanding these successes, she did not grasp that she "wasn't ready to represent people alone" and that she "needed another attorney to look out" for her. As she built her practice, she testified, she began to hire attorneys far more experienced than she in the hopes of learning from them. But she "deferred to those people" and did not know when "they were messing something up." She guessed that, during the time she owned her firm, she had employed around twenty-five attorneys.

According to Respondent, even predating her licensure she dealt with the fallout from a mélange of personal circumstances that thereafter compromised her practice. In 2008—shortly before opening her firm—she gave birth to her first child. She struggled to balance the competing demands of motherhood and solo practice, all while experiencing severe postpartum depression. In 2006, she underwent gastric bypass surgery, which, she said, negatively affected her body's ability to absorb nutrients—a condition that worsened after the birth of her son. She related that because of this condition, she regularly struggled with bouts of dizziness, vomiting, and fainting, and on some days she "couldn't move at all." This was compounded by PTSD stemming from multiple instances over the course of six years of stalking and sexual assault by her landlord, with the most recent event occurring sometime between 2010 and 2012.[8] Respondent also stated that she was the victim of domestic violence around the same timeframe.

Respondent shared that she has a few regrets in the Milender and Wilkins matters. First, she noted that she did not cogently explain to her clients how her suspension would affect their cases. Though she said that she did send her clients a letter notifying them of her

[8] In other testimony, Respondent attributed symptoms of PTSD to several suicide attempts earlier in her life.

suspension, she conceded that she was "not brave enough to confront them face to face," instead hoping that the bankruptcy trustees would counsel her clients about the ramifications of her suspension. Second, she allowed that she made a "mistake" by "jump[ing] into practicing on her own," ruminating that she should have begun her career by working for and learning from another attorney. And finally, she rued her lack of managerial savvy, which she blamed for the ethical infractions that led to her March 2015 suspension.

If she committed any misconduct in these matters, she said, she did so negligently, out of a misguided sense of diligence.[9] She thought the diligent thing to do was to file her clients' bankruptcy petitions and then find other attorneys so her clients would not be affected by her order of suspension. She toggled between claiming that "any damage to [her] clients has been fixed," since their matters have been discharged in bankruptcy, and asserting that she wants to make her former clients "whole." She then downplayed the injury she caused the Milenders and Wilkins. The Milenders expended only an additional $200.00 to hire Larson, which "can be taken care of very quickly," she maintained, though she acknowledged that she had not done so. The remaining financial obligation to her clients, she said, was complying with the bankruptcy court's disgorgement orders, which she contended she could satisfy "over time," when she achieves financial security. Later, however, she testified that she had made a payment agreement with the Milenders, whereby she would reimburse them in full by the end of January 2017. Respondent also caviled at what she owes Wilkins, repeating her argument that she really should be required to reimburse Wilkins only $350.00 in fees.

III. SANCTIONS

The American Bar Association *Standards for Imposing Lawyer Sanctions* ("ABA *Standards*")[10] and Colorado Supreme Court case law guide the imposition of sanctions for lawyer misconduct.[11] 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: Respondent violated duties to her clients of diligence, communication, and candor. She also breached duties she owed to the legal system by failing to obey court orders and by wasting judicial resources.

[9] Respondent attempted to challenge the factual findings set forth in the PDJ's order granting partial summary judgment, but the PDJ disallowed her from revisiting those findings.
[10] Found in ABA *Annotated Standards for Imposing Lawyer Sanctions* (2015).
[11] *See In re Roose,* 69 P.3d 43, 46-47 (Colo. 2003).

Mental State: Respondent intentionally violated Colo. 8.4(c): she made misrepresentations to her clients and the bankruptcy trustees to conceal her misconduct. She engaged in the other misconduct with a knowing state of mind.

Injury: Wilkins was deprived of the retainer she provided to Respondent, which Respondent has not disgorged. Linda Milender testified that Respondent's misconduct cost the Milenders money: the $750.00 that she never returned to them,[12] along with the approximately $200.00 that they paid Larson. Further, Respondent's failure to diligently represent the Milenders resulted in the dismissal of their bankruptcy petition, which may have caused them serious injury if Speirs had not reopened the case and Larson had not refiled their petition. Respondent's conduct also caused the Milenders "extra stress," Linda Milender said, as they were forced to "pick up the pieces" of the bankruptcy proceeding around the time that her husband was diagnosed with kidney cancer. In both the Milender and Wilkins matters, Respondent's lack of candor led to unnecessary delay and confusion.

Respondent compromised the integrity of the legal profession by continuing to pursue the Milender and Wilkins matters without timely informing her clients or the bankruptcy trustees that she faced imminent suspension of her law license. By flouting court orders in both matters, she undermined the efficient administration of justice and the authority of the courts, causing the legal system serious injury.

ABA *Standards* 4.0-7.0 – Presumptive Sanction

The presumptive sanction in this case is disbarment, as set forth in several ABA *Standards*. ABA *Standard* 6.21 applies when a lawyer knowingly violates a court order or rule with the intent to obtain a benefit for the lawyer or another, causing serious or potentially serious interference with a legal proceeding. A lawyer who knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a personal benefit—here, making misrepresentations—and thereby causes serious potential injury to a client, the public, or the legal system also presumptively faces disbarment under ABA *Standard* 7.1. Also applicable is ABA *Standard* 4.41(b), which calls for disbarment when a lawyer knowingly fails to perform services for a client and causes the client serious or potentially serious injury. Finally, ABA *Standard* 8.1(b) states that disbarment is generally appropriate when a lawyer has previously been suspended for the same or similar misconduct, yet knowingly or intentionally engages in further similar acts of misconduct that injure or potentially injure a client, the public, the legal system, or the profession. As described at length below, Respondent's 2015 suspension involved substantial and wide-ranging misconduct, including her failure to exercise diligence and her failure to follow court orders and rules.

[12] Linda Milender testified that she understood the repayment arrangement to require Respondent to make monthly payments, with the final payment to be remitted by January 2017.

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.[13] The parties have proposed that we apply a variety of aggravators and mitigators. As explained below, we apply seven aggravating factors and two mitigating factors, both of which are entitled only to limited weight.

Aggravating Factors

Prior Disciplinary Offenses – 9.22(a): Respondent has been disciplined once before.[14] In that matter, she was suspended for two years, effective March 6, 2015, for committing misconduct in the 2010-2013 timeframe in a variety of client matters, including in bankruptcy, civil, criminal, and divorce cases. In several of those cases, Respondent violated fee-related rules. She deposited client funds directly into her own operating account without having earned the funds, even though she should have known she was not entitled to do so, thereby violating Colo. RPC 1.15(a) and (c). She charged two clients a nonrefundable engagement retainer in violation of Colo. RPC 1.5(g). In several matters, Respondent failed to give clients a full accounting promptly upon request as mandated by Colo. RPC 1.15(b) and failed to refund unearned fees after termination of the representation as required by Colo. RPC 1.16(d). Finally, Respondent charged two clients an unreasonable fee in violation of Colo. RPC 1.5(a).

Further, Respondent failed to competently and diligently represent many of her clients as required by Colo. RPC 1.1 and 1.3, respectively. For instance, she failed to file a dissolution petition, submitted deficient or defective filings, disregarded judicial notice requirements, filed a bankruptcy petition for a client whom she knew was ineligible to file the petition, neglected to appear at scheduled meetings, failed to pursue and review discovery, and provided ineffective assistance to a criminal client. In some cases, this conduct and related conduct in contravention of court orders and rules prejudiced the administration of justice in violation of Colo. RPC 8.4(d). Respondent's neglect of her duties caused her clients prejudice and delay and led to the unnecessary expenditure of judicial resources.

In a half-dozen matters, Respondent's incompetence was compounded by her failure to adequately communicate with clients, including disregarding requests for information, neglecting to tell clients about her work on the cases, and neglecting to describe how she was earning fees. She thereby violated Colo. RPC 1.4(a), which requires a lawyer to keep clients reasonably informed, and Colo. RPC 1.4(b), which requires a lawyer to explain matters so as to permit the client to make informed decisions about the representation. Finally,

[13] *See* ABA *Standards* 9.21 & 9.31.
[14] *See* Ex. 1.

Respondent failed to supervise an associate attorney and a paralegal in contravention of Colo. RPC 5.1(b) and 5.3.

Dishonest or Selfish Motive – 9.22(b): Here, Respondent's conduct was both dishonest and selfish, which we consider a significant aggravating factor. With the intent to collect fees from the Milenders, Respondent filed the couple's bankruptcy petition after she had stipulated to a two-year suspension, knowing that she could not see the matter through to completion, yet failing to disclose these circumstances to her clients. She has never refunded those fees, though she was ordered to do so. Likewise, Respondent has never refunded Wilkins's fees, despite failing to appear at two of her hearings and failing to inform her of the disciplinary suspension. In both matters, Respondent made misrepresentations to the trustees.

Pattern of Misconduct – 9.22(c): Respondent's misconduct was repeated in both client matters. She also disobeyed numerous court orders to disgorge fees and pay sanctions over the course of many months.

Multiple Offenses – 9.22(d): Respondent engaged in myriad types of misconduct in this matter, and we thus apply this factor.

Bad Faith Obstruction of the Disciplinary Proceeding – 9.22(e): On August 12, 2016, the PDJ sanctioned Respondent for her failure to comply with two prior orders dated July 19 and July 22, in which the PDJ directed her to file a notice containing her current contact information. The PDJ ordered that ABA *Standard* 9.22(e) would apply in this case if Respondent was found to have engaged in misconduct. We accord this aggravating factor average weight.[15]

Refusal to Acknowledge Wrongful Nature of Misconduct – 9.22(g): The People press us to apply this factor, but we decline to do so. Respondent never expressly disclaimed culpability.[16]

Vulnerability of Victim – 9.22(i): We consider the Milenders vulnerable victims. Linda Milender testified that she has suffered two heart attacks, braved emergency bypass surgery, and been on permanent disability since 1989. Her husband retired about twelve years ago, and recently was diagnosed with kidney cancer. Medical costs caused financial

[15] The People also urge us to find that Respondent's failure to appear in person at the hearing should be viewed as additional evidence of her bad faith obstruction of the proceeding. Given the circumstances of this case, we will not. Although Respondent's failure to attend in person created logistical problems for the PDJ's staff, and although Respondent disobeyed the PDJ's instruction to present her testimony via land line, not cell phone, we see no reason to augment with further aggravation the PDJ's standing sanction order: ultimately, Respondent's decision not to appear in person likely redounded to her own, not the People's, detriment, since her physical presence might have altered in some way our unfavorable assessment of her credibility.

[16] This is not to say, however, that we endorse use the antipodal mitigating factor remorse, because we do not. Respondent minimized, justified, and shifted accountability for her actions whenever possible.

struggles, which in turn led to the couple's bankruptcy. We accord this factor relatively little weight, however, as we were provided no evidence to corroborate Linda Milender's testimony.

Indifference to Making Restitution – 9.22(j): Respondent protested that she is not indifferent but rather impecunious; that, when sanctioned, she was penniless; and that she should not be punished for being poor. But her argument elides the fact that she never took *any* step to recompense her clients or comply with court-ordered sanctions. In particular, Respondent has not sent any money to the Milenders—even just small amounts as a token of her good faith—even though, based on their payment arrangement, Linda Milender expected to receive monthly restitution payments. We consider this a significant factor in aggravation.[17]

Mitigating Factors

Personal and Emotional Problems – 9.32(c): As detailed above, Respondent described several personal hurdles and emotional problems, any one of which might merit mitigating credit. But she provided not even a scintilla of evidence to support her statements, nor could she recall pertinent details that we would expect her to have known. By way of example, she could not provide the full names of the therapist who diagnosed her with PTSD or the doctor who prescribed medication to treat that condition. Because her claims are thus largely unsubstantiated—and because some lack credibility—we accord this mitigating factor relatively little import.

Inexperience in the Practice of Law– 9.32(f): At the time of Respondent's misconduct, she had practiced law for about five-and-a-half years, which is at the outer bounds of "inexperience," as we understand it.[18] We give this factor only minimal weight.

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.[19] We are mindful that "individual circumstances make extremely problematic any meaningful

[17] It follows that we will not credit Respondent for her alleged efforts to make restitution or rectify the consequences of her misconduct. Respondent argued for application of that mitigator in large part on the grounds that she sent her clients a letter informing them of her suspension. But transmission of that letter was mandated by the rules governing the practice of law and the PDJ's suspension order. *See* C.R.C.P. 251.28(b). We categorically reject Respondent's assertion that she should be given mitigating credit for complying with one of the rules governing the practice of law.

[18] *Cf. People v. Stauffer*, 858 P.2d 694, 696 (Colo. 1993) (suggesting that about eight years of practice qualifies as substantial experience).

[19] *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).

comparison of discipline ultimately imposed in different cases."[20] 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.

This case, as the People observe, presents unique facts that are not readily susceptible to easy comparison. As such, the People cite cases that address various aspects of Respondent's misconduct. They point to *People v. Zimmerman* for the proposition that disbarment is appropriate when a lawyer accepts advance fees from clients after a disciplinary suspension order is entered, and then fails to properly notify clients, courts, and opposing parties of the suspension.[21] They also mention *People v. Gonzalez*, a case disbarring a lawyer for, among other things, failing to pay court-ordered spousal maintenance, failing to exercise diligence, and failing to appear at hearings in two client matters.[22]

A Colorado case that somewhat resembles the one at hand is *People v. Watson*, a case that predates the 1999 revision to this state's disciplinary system.[23] In *Watson*, the Colorado Supreme Court accepted a stipulation to a lawyer's suspension for eighteen months where the lawyer made a misrepresentation in a court filing and then later failed to notify a trial court and opposing counsel of his imminent suspension, which would prohibit him from participating in an upcoming trial.[24] In contrast with this matter, the parties stipulated that the lawyer did not cause any actual harm.[25] Also different, the parties relied not on ABA *Standard* 8.1. (or any other standard calling presumptively for disbarment) but ABA *Standard* 7.2 instead, which establishes suspension as the presumptive sanction.[26]

We also consider *In re Grzybek*.[27] There, a Minnesota lawyer failed to perform work in several client matters, to return client property, to communicate with his clients, and to cooperate in his disciplinary investigation.[28] He also misappropriated $750.00 in client funds and, saliently, did not comply with three orders issued by separate courts.[29] Further, he failed to properly notify his clients of his suspension and advocated for the interests of a

---

[20] *In re Attorney F.*, 285 P.3d at 327 (quoting *In re Rosen*, 198 P.3d 116, 121 (Colo. 2008)).
[21] 960 P.2d 85, 86-88 (Colo. 1998).
[22] 967 P.2d 156, 157-58 (Colo. 1998). The analysis in *Gonzalez* hinges on conversion of client funds, however, and the Hearing Board thus does not find it particularly persuasive in this matter.
[23] 883 P.2d 1053 (Colo. 1994). The Colorado Supreme Court has suggested that cases predating the 1999 revision carry less precedential weight than more recent cases. *See Attorney F.,* 285 P.3d at 327.
[24] *Watson*, 883 P.2d at 1054.
[25] *Id.*
[26] *Id.; see also In re O'Callaghan,* 456 S.E.2d 579, 580 (Ga. 1995) (disbarring an attorney for accepting a client's retainer, failing to act on behalf of the client, failing to return the retainer, refusing to communicate with the client, failing to notify the client of an order of disciplinary suspension, failing to cease practicing law after his suspension, and making a misrepresentation); *Cleveland Metro. Bar Ass'n v. Gottehrer*, 924 N.E.2d 825, 828-29 (Ohio 2010) (imposing an indefinite suspension where an attorney accepted client retainers but did not perform client work, failed to respond to client communications, failed to return client retainers, and failed to cooperate in disciplinary proceedings).
[27] 567 N.W.2d 259 (Minn. 1997).
[28] *Id.* at 263-64.
[29] *Id.*

client while his law license was suspended.[30] The court identified three separate grounds on which the lawyer should be disbarred: repeated neglect of client matters, which occurred "less than a year after receiving a six-month suspension for similar transgressions; his misappropriation of $750 in client funds and his subsequent failure to make any effort to return the money; and his repeated failure to comply with court orders."[31]

These cases, taken in conjunction with the presumptive sanction established by the ABA *Standards* and the applicable aggravating and mitigating factors, lead us to conclude that we must disbar Respondent. In two separate matters—once just before and once just after she stipulated to a two-year suspension—Respondent filed bankruptcy petitions for clients. She did so without alerting her clients to the fact that she would be unable to complete the tasks she was paid to perform. She failed to communicate with her clients about their cases and about her suspension. She ceased working on her clients' matters, imperiling their interests, and then launched a campaign of misinformation to deflect blame. But the bankruptcy courts caught on and sanctioned her on eleven separate occasions. She has yet to comply with any of these orders.

As the *Grzybek* court remarked, we would have expected, in the immediate aftermath of her stipulation to suspension, that Respondent demonstrate "a renewed commitment to comprehensive ethical and professional behavior."[32] Instead, she engaged in similar misconduct, and other types besides. Particularly when viewed against the backdrop of Respondent's prior misconduct, which included failing to act with diligence and prejudicing the administration of justice by refusing to obey court orders, it seems quite clear that nothing less than disbarment will adequately protect the public from her.

IV. CONCLUSION

When a suspended lawyer repeats misconduct, twice disregarding the same ethical rules, we must conclude that the "lesser sanction has proven insufficient," and a "more severe sanction is necessary to protect the public."[33] Respondent's misconduct in the Milender and Wilkins matters—specifically, client neglect and disregard of court orders—underscores this point. Respondent is not fit to serve as a lawyer in the State of Colorado, and we thus disbar her.

[30] *Id.* at 261.
[31] *Id.* at 265.
[32] *Id.* at 262 (quotations and citations omitted).
[33] *In re Chavez*, 1 P.3d 417, 423 (N.M. 2000).

V. ORDER

The Hearing Board therefore **ORDERS**:

1. **NITCHE S. WARD**, attorney registration number 41073, **SHALL BE DISBARRED.** The disbarment will take effect upon issuance of an "Order and Notice of Disbarment."[34]

2. To the extent applicable, 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.

3. Within fourteen days of issuance of the "Order and Notice of Disbarment," 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.

4. The parties **MUST** file any posthearing motion or application for stay pending appeal with the Hearing Board **on or before 21 days**. Any response thereto **MUST** be filed within seven days.

5. Respondent **SHALL** pay the costs of these proceedings. The People **SHALL** submit a statement of costs **on or before 14 days**. Any response thereto **MUST** be filed within seven days.

[34] In general, an order and notice of sanction will issue thirty-five days after a decision is entered under 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 9th DAY OF FEBRUARY, 2017.

Original Signature on File
WILLIAM R. LUCERO
PRESIDING DISCIPLINARY JUDGE

Original Signature on File
MARK EARNHART
HEARING BOARD MEMBER

Original Signature on File
MICKEY W. SMITH
HEARING BOARD MEMBER

Copies to:

Alan C. Obye Office of Attorney Regulation Counsel	Via Email a.obye@csc.state.co.us
Nitche S. Ward Respondent P.O. Box 184 Ellenwood, GA 30294	Via First-Class Mail and Email nitcheward2015@gmail.com
Mark Earnhart Mickey W. Smith Hearing Board Members	Via Email Via Email
Christopher T. Ryan Colorado Supreme Court	Via Hand Delivery