

People v. Richard Samuel Gross. 16PDJ009. March 15, 2016.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Richard Samuel Gross (attorney registration number 16008) for six months, all stayed upon the successful completion of an eighteen-month period of probation, with conditions. Gross's probation took effect on March 15, 2016.

In summer 2013, a couple retained Gross to assist them in resolving a dispute with a contractor who had renovated the man's basement. Gross's fee agreement was not reduced to writing. The woman later informed Gross that the couple had negotiated a settlement with the contractor and asked Gross to draft an agreement. Not long after, the couple's relationship deteriorated. The man fell out of contact with Gross and the contractor, and he never saw a draft settlement agreement. The contractor made a number of installment payments in cash to Gross, who took his fee and issued a check to the woman for the remainder, though Gross did not hold the money in trust and did not keep records of the deposits or disbursements.

Aside from the contractor issue, the couple were also financially intertwined through the purchase of a car. The man wanted to buy the car for his son, and the woman had offered to purchase the car with her favorable credit rating, so long as the man made all of the payments and insured the car. A year after the couple broke up, Gross contacted the man on behalf of the woman as to both the contractor matter and the car matter. Gross accepted the matters on a contingency basis, though he did not have a written fee agreement with the woman. The man informed Gross that he could not represent the woman because he had formerly represented the couple in the contractor matter. Gross disagreed and tried to negotiate with the man, who later raised the conflict of interest again. During one of their communications, Gross misrepresented that the contractor matter had settled for far less than it actually had. With Gross's help, the woman sued the man, who hired defense counsel. The man then successfully moved to disqualify Gross.

Gross's conduct violated Colo. RPC 1.5(b) (a lawyer shall inform a client in writing about the lawyer's fees and expenses within a reasonable time after being retained, if the lawyer has not regularly represented the client); Colo. RPC 1.5(c) (a lawyer shall enter into contingent fee agreements that conform to the requirements of Chapter 23.3 of the Colorado Rules of Civil Procedure); Colo. RPC 1.9(a) (a lawyer who has formerly represented a client in a matter shall not later represent another person in the same or a substantially related matter in which that person's interests are materially adverse to those of the former client unless the former client gives written informed consent); Colo. RPC 1.9(c) (a lawyer who has formerly represented a client in a matter shall not use information relating to the representation to the disadvantage of the former client); Colo. RPC 1.15A(a) (a lawyer shall hold client property separate from the lawyer's own property); Colo. RPC 1.15D(a)(1) (a lawyer shall maintain an appropriate record-keeping system to track funds or other property held for others); and Colo. RPC 8.4(c) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation).