

Colorado Supreme Court 2 East 14th Avenue Denver, CO 80203	DATE FILED: October 18, 2018 CASE NUMBER: 2017SA249
Original Proceeding in Unauthorized Practice of Law, 2017UPL021	
Petitioner: The People of the State of Colorado, v. Respondents: Brian Costello and Costello Consultants, LLC.	Supreme Court Case No: 2017SA249
ORDER OF INJUNCTION	

Upon consideration of the Amended Petition for Restitution and the Order Entering Default Judgment against Brian Costello under C.R.C.P. 55(b) and Report of Hearing Master Under C.R.C.P. 236(a) filed in the above cause, and now being sufficiently advised in the premises,

IT IS ORDERED that Respondents, BRIAN COSTELLO and COSTELLO CONSULTANTS, LLC shall be, and the same hereby are, ENJOINED from engaging in the Unauthorized Practice of Law in the State of Colorado.

IT IS FURTHER ORDERED that Respondents, BRIAN COSTELLO and COSTELLO CONSULTANTS, LLC are assessed costs in the amount of \$562.00. Said costs to be paid to the Office of Attorney Regulation Counsel, within thirty (30) days of the date of this order.

IT IS FURTHER ORDERED that Respondents, BRIAN COSTELLO and COSTELLO CONSULTANTS, LLC shall refund the following individuals as detailed in the Report of the Hearing Master:

Jarrold Fiorino, \$7,500.00
Adam Spiels, \$16,500.00
Scott Zlateff, \$8,000.00
Aaron Caffee, \$20,000.00
Jonathan Horowitz, \$8,500.00
Brian Cain, \$17,500.00
Jamie L. Strickland, \$16,000.00

IT IS FURTHER ORDERED that a fine be imposed in the amount of \$10,000.00.

BY THE COURT, OCTOBER 18, 2018

<p>SUPREME COURT, STATE OF COLORADO</p> <p>ORIGINAL PROCEEDING IN THE UNAUTHORIZED PRACTICE OF LAW BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1300 BROADWAY, SUITE 250 DENVER, CO 80203</p>	
<p>Petitioner: THE PEOPLE OF THE STATE OF COLORADO</p> <p>Respondents: BRIAN COSTELLO and COSTELLO CONSULTANTS, LLC</p>	<p>Case Number: 17SA249</p>
<p>ORDER ENTERING DEFAULT JUDGMENT AGAINST BRIAN COSTELLO UNDER C.R.C.P. 55(b) AND REPORT OF HEARING MASTER UNDER C.R.C.P. 236(a)</p>	

In this unauthorized practice of law matter, Brian Costello (“Respondent Costello”) defaulted. The Presiding Disciplinary Judge (“the PDJ”) thus deemed admitted the allegations that Respondent Costello engaged in the unauthorized practice of law by providing legal services and advice to several clients. The PDJ recommends that the Colorado Supreme Court enjoin Respondent Costello from the further unauthorized practice of law and order him to pay restitution, a fine, and costs.

I. PROCEDURAL HISTORY

Kim E. Ikeler of the Office of Attorney Regulation Counsel (“the People”) filed an “Amended Petition for Restitution” on October 11, 2017, alleging that Respondent Costello and Costello Consultants, LLC (“Respondent Costello Consultants”) (collectively, “Respondents”) engaged in the unauthorized practice of law and seeking multiple awards of restitution. The Colorado Supreme Court issued an “Order and Rule to Show Cause” on October 16, 2017, directing Respondents to answer in writing within twenty-one days of service why they should not be enjoined from the unauthorized practice of law. Respondents did not respond to the petition or to the Colorado Supreme Court’s order.

After filing a “Proof of Service on Respondent Brian Costello,” the People filed a “Motion to Proceed as to Respondent Brian Costello” on May 29, 2018. Two days later, the Colorado Supreme Court issued an “Order of Court,” referring this matter to the PDJ to prepare a report setting forth “findings of fact, conclusions of law, and recommendations” under C.R.C.P. 234(f) and 236(a). The PDJ issued an “Order to Show Cause Under C.R.C.P. 234-236” on June 4, 2018, directing Respondent Costello to answer the People’s petition on or before June 18, 2018. The PDJ’s order also warned Respondent Costello that if

he failed to answer, the PDJ might deem the claims alleged in the People's petition to have been proved. Respondent Costello did not comply with that order.

Meanwhile, the People moved for entry of default against Respondent Costello on June 19, 2018, and the PDJ granted that motion on July 11, 2018, thereby deeming admitted the allegations and charges against Respondent Costello, including the allegation that Respondent Costello engaged in the unauthorized practice of law. The People then filed a "Motion for Default Judgment Against Respondent Brian Costello" on July 27, 2018, to which Respondent Costello did not respond. On August 28, 2018, the People filed a "Supplement to Motion for Default Judgment Against Respondent Brian Costello."

II. PETITIONER'S MOTION FOR DEFAULT JUDGMENT

The People have followed the procedure for default judgments set forth in C.R.C.P. 55 and 121 section 1-14 by showing valid service on Respondent Costello; submitting an affidavit indicating that venue is proper and that Respondent Costello is not a minor, incapacitated person, officer of the state, or in the military; submitting affidavits establishing the amount of restitution owed; and filing a statement of costs. Accordingly, the PDJ **GRANTS** the People's "Motion for Default Judgment Against Respondent Costello."

The PDJ issues the following report to the Colorado Supreme Court under C.R.C.P. 236(a).

III. FACTS ESTABLISHED BY DEFAULT AND CONCLUSIONS OF LAW

From mid-2015 until recently, Respondent Costello resided in Colorado. He is not licensed to practice law in Colorado or in any other state. He is the principal of Respondent Costello Consultants, LLC, a Colorado limited liability company. Respondent Costello does not employ licensed attorneys. Respondent Costello was enjoined from the unauthorized practice of law in case number 16SA251 on June 8, 2017.

Fiorino Matter

Jarrod Fiorino had a student loan balance of over \$110,000.00 with Navient Corporation. In March 2016, Respondent Costello promised Fiorino that he could eliminate this debt for a \$7,500.00 fee. Fiorino wired Respondent Costello the funds. Relying on Respondent Costello's advice, Fiorino instructed his bank to stop making automatic payments to Navient.

In October 2016, Respondent Costello prepared a promissory note from Fiorino to Navient for \$110,500.00. The top of the note read "This promissory note, negotiable security instrument, can be financially traded."¹ The note contained several citations to legal authorities; represented that Fiorino was a private banker; listed four student loan account

¹ Am. Pet. ¶ 18.

numbers; contained terms and conditions; stated that payment would be “made against the obligations of the United States or assigns for settlement to that part of the public debt due its Principals and Sureties”;² asserted that if Navient did not return the promissory note within the second banking day after receipt, Navient would be accepting the promissory note as a full settlement and discharge of the loan debt; indicated that Fiorino would pay the loan in full at his New York residence on November 22, 2018; and stated that if Navient traded or assigned the note, Fiorino’s obligation to Navient would terminate.

The note was notarized and Fiorino’s signature was guaranteed by Private Bankers Bank, N.A. On March 14, 2017, the note was delivered to Navient, where an employee accepted the delivery.

On April 17, 2017, Respondent Costello drafted a settlement letter for Fiorino to sign. The letter asserted that Fiorino had tendered the promissory note to Navient, offering to pay off his student loan debt in full, but that Navient failed to collect the payoff. The letter stated that Navient had entered into a “new contract accepted by your bank that terminates and cancels the original loan or debt under UCC Contract Law.”³ The letter further demanded that Navient provide Fiorino with a zero balance loan statement. Fiorino signed and notarized the letter on April 17 and then sent Respondent Costello the letter. Respondent Costello next advised Fiorino to write a check to Navient for \$110,500.00 and to overwrite the check in red ink with the words, “Navient defaulted on new approved contract on this date per terms of accepted payment contract.”⁴ Fiorino did so and sent the overwritten check to Respondent Costello. Respondent Costello sent Navient the letter and the overwritten check. He also sent Navient a Western Union check, on which he forged Fiorino’s signature.

Fiorino received no value from Respondent Costello’s services. Respondent Costello never returned any of Fiorino’s funds.

Spiel Matter

In 2014, Respondent Costello told Adam Spiel and his wife that he could get them two Mercedes vehicles from a dealership where he had a contact. Respondent Costello told the Spiels that he would access a trust account in their name, which was linked to Spiels’ social security numbers. Respondent Costello claimed that only he could complete this transaction. In August 2015, the Spiels sent Respondent Costello two payments of \$6,800.00 and \$12,400.00 so he could finalize the purchase of the vehicles. Respondent Costello told the Spiels that the vehicles were in route. The Spiels waited for months, but the vehicles never came.

² Am. Pet. ¶ 22.

³ Am. Pet. ¶ 34.

⁴ Am. Pet. ¶ 40.

In December 2015, Respondent Costello told the Spiels that for an additional \$16,500.00 he could pay off the Spiels' mortgages. The Spiels paid Respondent Costello the additional funds. In October and November 2016, Respondent Costello sent the Spiels several promissory notes that he had drafted. The notes contained similar language and content as the note issued in the Fiorino matter described above. Respondent Costello issued four promissory notes: one to Ocwen Financial Corporation for \$147,000.00; a second to Santander Bank for \$55,000.00; a third to Nationstar Mortgage for \$252,000.00; and a fourth to USAA for \$31,000.00. Respondent Costello directed the Spiels to print the notes, sign and notarize them, and then send them back to him, which they did.

Respondent Costello told the Spiels that he would use the notes to pay off the mortgages with funds from alleged trust accounts in the Spiels' names or from purported trust accounts that he had formed for the Spiels as private bankers with the International Monetary Fund ("IMF"). Respondent Costello arranged to have the Spiels' signatures guaranteed with a medallion stamp through a company called eSignature Guarantee.

In January 2017, Respondent Costello sent the Spiels pleadings that he had drafted, directing them to file them in small claims court to commence legal action against Nationstar and USAA. In March 2017, the promissory notes were delivered to Nationstar and USAA, but the lenders did not accept them.

Next, Respondent Costello drafted settlement letters to Nationstar and USAA, asserting that the Spiels had discharged their mortgage obligations under the terms of the promissory notes. He instructed the Spiels to sign and notarize the letters, which he then sent to the lenders. Finally, Respondent Costello instructed the Spiels to write checks to the lenders for the full amount of the mortgages and, to overwrite the checks in red ink, indicating that the lenders had defaulted on the new payment contract. The Spiels did so even though they did not have the funds in the bank account to cover the checks.

The Spiels received no value for Respondent Costello's services. They have requested refunds but have not received any.

Zlateff Matter

In March 2016, Respondent Costello told Scott Zlateff that he could eliminate all of his mortgage and credit card debt for an \$8,000.00 fee. Zlateff took out a loan for that amount and wired the money to Respondent Costello. Zlateff sent all the letters he received from his creditors to Respondent Costello.

Respondent Costello told Zlateff that he wanted to sue some of Zlateff's creditors and told him that he would prepare the pleadings and arrange for service of process. Respondent Costello also told Zlateff that he would prepare him to appear pro se in court. Respondent Costello drafted and filed a notice of small claims, asserting a claim for \$5,000.00 against Discover Bank. Attached to the notice was a letter written by Respondent Costello and signed by Zlateff, demanding a validation of Discover Bank's claim.

Respondent Costello also drafted a promissory note for Zlateff, which he said would be used to pay off Zlateff's mortgage. The note was in the amount of \$119,000.00 and payable to Zlateff's mortgage lender Seterus, Inc. The promissory note contained language and content similar to that in the notes Respondent Costello drafted for Fiorino and the Spiels. Like those notes, it included legal authority, identified Zlateff as a private banker, and provided that upon receipt, Zlateff's mortgage obligation would be discharged. This note was not accepted by Seterus.

Zlateff received no value for Respondent Costello's services. Respondent Costello did not return Zlateff's money.

Caffee Matter

In December 2016, Respondent Costello told Aaron Caffee that he could eliminate his credit card, auto loan, student loan, and mortgage debt. Respondent Costello told Caffee that he would draft letters to all of his credit card lenders and CarMax, which held his auto loan. He also promised that Caffee's debt would be eliminated in full within three months. Respondent Costello further guaranteed that any negative information would be removed from Caffee's credit reports. In February 2017, Respondent Costello invoiced Caffee \$20,000.00 for his services, which Caffee paid by borrowing money from his retirement funds.

In April 2017, Respondent Costello drafted promissory notes for Caffee to sign and deliver to his creditors. As but one example, Respondent Costello prepared a promissory note from Caffee to CarMax in the amount of \$35,819.00, which contained language and content similar to that in the notes he drafted in the other matters described above. The note purported to discharge Caffee's debt if the note was not accepted and returned within two days. Respondent Costello drafted a total of seven promissory notes for Caffee's creditors. He told Caffee to get the notes medallion-stamped at Chase Bank, which he said would give the notes the power to compel the creditors to remove balances from all of Caffee's accounts in accordance with contract law.

After questioning Respondent Costello's methods, Caffee asked him for a refund. But he never received one, nor did he obtain any value from Respondent Costello's services.

Rider Matter

In 2016, Respondent Costello advised Lindsay Rider to withdraw \$15,000.00 from her Capital One credit card. He told her that once she did so, he could make the balance disappear by explaining to Capital One that it no longer owned her debt if it had transferred the debt to another company. Rider paid Respondent Costello \$4,650.00 to eliminate the debt.

Respondent Costello advised Rider to stop making her monthly payment to Capital One, which she did. But Capital One did not remove Rider's debt. Respondent Costello told

Rider that Capital One's refusal to remove the debt violated a statute. He told her that he would sue Capital One. He flew to Rider's residence in Florida, and told her that he could represent her by informing the court that he was her boyfriend. He filed a lawsuit against Capital One in small claims court. But when counsel for Capital One removed the case to federal court, Respondent Costello returned to Colorado.

In March 2017, Respondent Costello drafted a promissory note for Rider in the amount of \$15,085.00 payable to Capital One. The note contained language and content similar to that in the notes he drafted in the other matters discussed above, including referring to legal authority. Per Respondent Costello's instructions, Rider signed the note and got it medallion stamped at a bank.

After learning that Respondent Costello's tactics were not legitimate, Rider requested a refund. She never got a refund, though, nor did she receive any value for Respondent Costello's services.

Horowitz Matter

Jonathan Horowitz had a student loan balance of over \$122,000.00 with Navient. In 2016, Respondent Costello told Horowitz that he could eliminate this debt for a fee of \$8,500.00. As he did in the matters discussed above, Respondent Costello drafted a promissory note, containing comparable language and content as in those matters discussed above. Respondent Costello sent the signed promissory note to Navient on February 13, 2017. He also presented the note at Navient's office, where it was accepted by an employee. Respondent Costello told Horowitz that his loans had thereby been paid.

In April 2017, Respondent Costello drafted a letter for Horowitz to send to Navient, in which he asserted that Horowitz's student loans had been paid in full pursuant to the terms of the promissory note that Navient had accepted. The letter demanded that Navient issue a zero balance statement. Respondent Costello advised Horowitz to issue a check to Navient for \$122,000.00 and to overwrite the check in red ink, stating that Navient had defaulted on the note.

Horowitz later learned that Navient was going to place his account in default. He was able to make amends with Navient, but his credit rating was damaged. He asked Respondent Costello for a refund but never received one. He received no value for Respondent Costello's services.

Cain Matter

In 2016, Respondent Costello contacted Brian Cain, who at the time had good credit and no credit card debt. Respondent Costello persuaded Cain to hire him. One of Respondent Costello's agents advised Cain to withdraw a total of \$97,880.00 from his credit cards. Respondent Costello told Cain that this debt would be eliminated by issuing

promissory notes. On November 5, 2016, Cain paid Respondent Costello \$17,500.00 in fees for these services.

By January 2017, Cain had maxed out his credit card debt. Respondents Costello's agent assured Cain that the elimination process would soon begin. In May 2017, Respondent Costello drafted promissory notes for Cain payable to Capital One, Citibank, Chase, American Express, Bank of America, Barclays Bank, Discover Bank, U.S. Bank, and Wells Fargo. The notes contained language and content similar to those in the notes that Respondent Costello drafted in the matters discussed above. Cain got the notes medallion-stamped at a local bank.

Around this time, Respondent Costello's operations were interrupted by regulatory pressure. Cain learned of these events and requested a refund from Respondent Costello in June 2017. He has never received a refund and obtained no value from Respondent Costello's services.

Strickland Matter

On August 24, 2016, Jamie L. Strickland paid Respondent Costello \$16,000.00 to eliminate his debt with two lenders and to remove some old medical bills from his credit report. Respondent Costello prepared promissory notes with language and content similar as to those in the notes he drafted in the matters discussed above, including legal authority and referring to Strickland as a private banker. One note was for \$5,499.00, payable to One Main Financial. The note purported to establish a novation between Strickland and One Main Financial, substituting the promissory notes for the original loan documents as the agreement between the parties. Respondent Costello prepared two additional notes payable to Pioneer West Virginia Federal Credit Union for \$8,730.00 and \$11,911.00.

In February 2017, Strickland signed and notarized the notes and sent them to Respondent Costello. That same month, Respondent Costello recorded the notes with the Douglas County Clerk and Recorder.

Strickland received no value for Respondent Costello's services. Respondent Costello never issued Strickland a refund for his fees.

Murphy Matter

Respondent Costello contacted Michael and Samantha Murphy in June 2016, offering to remedy their credit card debt for a \$9,000.00 fee. Respondent Costello told the Murphys it would take six months to so do, and he advised the Murphys to meanwhile use the maximum amount of credit available on their credit cards. Respondent Costello promised to eliminate this debt as well.

After a considerable delay, Respondent Costello sent the Murphys a promissory note containing language and content similar to those in the notes he drafted in the matters

detailed above, including incorporating legal authority and referring to Mr. Murphy as a private banker. The promissory note was for \$25,166.00, payable to Bank of America. The note purported to establish a new contract between the Murphys and Bank of America if the note was not returned within two business days. Respondent Costello instructed the Murphys to notarize the note but a local bank refused to do so. The Murphys then sent the note back to Respondent Costello so he could obtain a medallion stamp.

The Murphys soon learned of Respondent Costello's regulatory problems. They requested a refund from Respondent Costello. Respondent Costello told Mr. Murphy that a former agent of the company was responsible for the problems. Respondent Costello promised to eliminate the Murphys' credit card balances and to issue them a refund for \$3,500.00. They never received a refund and obtained no value from Respondent Costello's services.

Foltz Matter

Peter and Jessica Foltz had credit card, student loan, and auto loan debt. In October 2016, Respondent Costello sent the Foltzes some material, including an excerpt from a prospectus from Chase Bank USA and a quote from the Uniform Commercial Code section 3-605. The Foltzes hired Respondent Costello to remedy their debts and paid him a fee of \$16,750.00 through an internet service called LawPay.

Respondent Costello drafted two promissory notes payable to Chase for \$9,272.00 and \$9,588.00, one note payable to Fed Loan Servicing for \$11,694.00, one note payable to Mohela for \$19,790.00, and two notes payable to Wells Fargo for \$12,199.00 and \$7,116.00. The six promissory notes contained language, conditions, and other content similar to those in the notes discussed above, including referencing legal authority and referring to the Foltzes as private bankers. The notes purported to establish a new contractual relationship between the Foltzes and their creditors. Respondent Costello advised the Foltzes to notarize the notes.

The Foltzes soon became aware of the dubious nature of Respondent Costello's business and declined to sign the notes. Respondent Costello did not refund the Foltzes' funds, nor did they receive a valuable service.

Legal Standards Governing the Unauthorized Practice of Law

The Colorado Supreme Court, which exercises exclusive jurisdiction to define the practice of law within the State of Colorado,⁵ restricts the practice of law to protect members of the public from receiving incompetent legal advice from unqualified

⁵ C.R.C.P. 228.

individuals.⁶ To practice law in the State of Colorado, a person must have a law license issued by the Colorado Supreme Court, unless a specific exception applies.⁷

Preparation of legal documents by an unlicensed person, other than solely as a scrivener, is the unauthorized practice of law.⁸ Colorado Supreme Court case law holds that a person engages in the practice of law by acting “in a representative capacity in protecting, enforcing, or defending the legal rights and duties of another and in counseling, advising and assisting that person in connection with these rights and duties.”⁹ In particular, “an unlicensed person engages in the unauthorized practice of law by offering legal advice about a specific case . . . or holding oneself out as the representative of another in a legal action.”¹⁰ Advising clients about legal matters is prohibited because doing so involves the lay exercise of legal judgment or discretion.¹¹

Applying the standards set forth above, the PDJ has no trouble concluding that Respondent Costello engaged in the unauthorized practice of law. He practiced law when, for a fee, he drafted promissory notes on his clients’ behalves and offered them legal advice about the effect of the notes. He prepared notes that were designed to eliminate the clients’ credit card, student loan, automobile, and mortgage debts. The notes contained legal terms and conditions and citation to legal authorities, and they purported to be binding legal instruments. The notes allegedly placed legal obligations on the lenders, which if not met would alter the legal relationships between Respondent Costello’s clients and the lenders. Respondent Costello advised his clients that these promissory notes would legally eliminate their debts in full, and in some cases, told his clients to cease meeting their monthly payment obligations. Respondent Costello also advised Rider and Cain to withdraw more than \$100,000.00 combined from their credit cards, assuring them that he could make that debt legally disappear. Through these acts, Respondent Costello advanced legal claims and offered advice, thus exercising legal discretion, albeit incompetently.

In addition, Respondent Costello practiced law by drafting settlement letters on behalf of Fiorino, the Spiels, and Horowitz. In these letters, Respondent Costello advanced the legal claims that the lenders had entered into new binding legal contracts when they accepted delivery of the promissory notes and that the lenders had thereafter defaulted on those amended contracts. He argued that this conduct had the effect of cancelling his clients’ outstanding debt. Respondent Costello also advised his clients to issue checks to lenders and to write legal language on the checks memorializing the lenders’ defaults. The

⁶ *Unauthorized Practice of Law Comm. v. Grimes*, 654 P.2d 822, 826 (Colo. 1982); see also *Charter One Mortg. Corp. v. Condra*, 865 N.E.2d 602, 605 (Ind. 2007) (“Confining the practice of law to licensed attorneys is designed to protect the public from the potentially severe consequences of following advice on legal matters from unqualified persons.”); *In re Baker*, 85 A.2d 505, 514 (N.J. 1952) (“The amateur at law is as dangerous to the community as an amateur surgeon would be.”).

⁷ See C.R.C.P. 201-227.

⁸ *Title Guar. v. Denver Bar Ass’n*, 135 Colo. 423, 430, 312 P.2d 1011, 1015 (1957).

⁹ *People v. Shell*, 148 P.3d 162, 171 (Colo. 2006).

¹⁰ *Id.* at 171 (quotation omitted).

¹¹ *People v. Adams*, 243 P.3d 256, 266 (Colo. 2010).

amendment of contracts and the concept of default carry specific meanings and important consequences within the legal context.

Finally, Respondent Costello practiced law by drafting pleadings for the Spiels to file against Nationstar and USAA, by drafting pleadings to be filed by Zlateff in a case against Discover Bank, and by filing a lawsuit for Rider against Capital One in small claims court. Preparing and filing pleadings and initiating a lawsuit are hallmarks of the practice of law: exercising of legal judgment, advising people in connection with their legal rights and duties, and affecting those rights and duties.

Fines, Restitution, and Costs

Turning to the matter of a fine, C.R.C.P. 236(a) provides that if a hearing master finds that a respondent has engaged in the unauthorized practice of law, the hearing master shall recommend that the Colorado Supreme Court impose a fine ranging from \$250.00 to \$1,000.00 for each incident of the unauthorized practice of law. The People request that the PDJ recommend the minimum fine of \$250.00 per incident, or \$2,500.00. In this case, Respondent Costello engaged in ten instances of the unauthorized practice of law over an extended timeframe; many of the actions at issue here took place during the pendency of his earlier unauthorized practice of law proceeding.¹² His conduct was particularly egregious in nature; for instance, he induced his clients to incur staggering amounts of credit card debt and to take action that negatively impacted their credit scores and legal rights. Accordingly, the PDJ recommends that Respondent Costello be fined \$1,000.00 for each instance, or \$10,000.00, for repeatedly engaging in the unauthorized practice of law.

The People also request awards of restitution in the following amounts:

- Jarrod Fiorino, \$7,500.00;¹³
- Adam Spiels, \$16,500.00;¹⁴
- Scott Zlateff, \$8,000.00;¹⁵
- Aaron Caffee, \$20,000.00;¹⁶
- Jonathan Horowitz, \$8,500.00;¹⁷
- Brian Cain, \$17,500.00;¹⁸ and
- Jamie L. Strickland, \$16,000.00.¹⁹

¹² *People v. Adams*, 243 P.3d 256, 267-68 (Colo. 2010).

¹³ Mot. for Default J. Ex. A.

¹⁴ Mot. for Default J. Ex. B.

¹⁵ Mot. for Default J. Ex. C.

¹⁶ Mot. for Default J. Ex. D.

¹⁷ Mot. for Default J. Ex. E.

¹⁸ Mot. for Default J. Ex. F.

¹⁹ Mot. for Default J. Ex. G. The People did not submit affidavits or exhibits establishing restitution in the Rider, Murphy, and Foltz matters. Accordingly, the PDJ does not recommend that Respondent Costello pay restitution to these individuals. See People's Supplement.

Because the Colorado Supreme Court has deemed it appropriate to award restitution of any fees received for the unauthorized practice of law,²⁰ the PDJ finds that restitution is warranted here.

The People filed a statement of costs, attached as exhibit H to their motion for default judgment, reflecting costs in the amount of \$562.00 for service of process and an administrative fee.²¹ These costs appear reasonable. Relying on C.R.C.P. 237(a), the PDJ recommends an award of the full amount of costs requested.

IV. RECOMMENDATION

Because the People filed a proof of completed services only as to Respondent Costello and because this case has proceeded before the PDJ only as to Respondent Costello, the PDJ makes no specific recommendations as to Respondent Costello Consultants. Thus, the PDJ **RECOMMENDS** that the Colorado Supreme Court **FIND** Respondent Costello engaged in the unauthorized practice of law and **ENJOIN** him from the unauthorized practice of law. The PDJ further **RECOMMENDS** that the Colorado Supreme Court enter an order requiring Respondent Costello to pay **RESTITUTION** in the amounts stated above, pay a **FINE** of \$10,000.00, and to pay **COSTS** in the amount of \$562.00.

DATED THIS 31st DAY OF AUGUST, 2018.

William R. Lucero

WILLIAM R. LUCERO
PRESIDING DISCIPLINARY JUDGE



²⁰ *People v. Love*, 775 P.2d 26, 27 (Colo. 1989) (ordering nonlawyer to pay amounts in restitution for fees he received while engaging in the unauthorized practice of law).

²¹ See C.R.S. § 13-16-122 (setting forth an illustrative list of categories of “includable” costs in civil cases, including “[a]ny fees for service of process”).

Copies to:

Kim E. Ikeler
Office of Attorney Regulation Counsel

Via Email
k.ikeler@csc.state.co.us

Brian Costello
Costello Consultants, LLC
Respondents
10884 Valleybrook Circle
Highlands Ranch, CO 80130

Via First-Class Mail

Cheryl Stevens
Colorado Supreme Court

Via Hand Delivery