

People v. Todd H. Barson. 18PDJo45. July 19, 2018.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Todd H. Barson (attorney registration number 23529) for six months, all stayed upon successful completion of a two-year period of probation, effective July 19, 2018. The probationary requirements include completion of ethics school and a trust account audit.

After leaving the government's employ in 1999, Barson established a solo criminal defense practice. At the time, he did not adequately investigate the rules governing how to properly set up a trust account and account for client funds. In about 2009, Barson began leaving earned fees in his trust account rather than moving them to his operating account or other accounts. By late 2014, the \$95,000.00 in his trust account—which had mostly been earned—exceeded the total sum of his clients' unearned retainers. The next year, Barson began to split unearned client funds between his operating account and his tax account, incorrectly believing based on the balance in his trust account that he did not need to place incoming fees into his trust account. He did not maintain an accounting of the unearned client funds that he split between his operating and tax accounts. Barson sometimes used clients' cash payments for his personal use before depositing the funds into any account.

In Barson's personal divorce case, the court treated the \$95,000.00 sum in his trust account as part of the marital estate and divided it. During that proceeding, Barson contacted an ethics lawyer and learned that his trust account practices were improper. He then set up a new trust account system, self-reported his prior trust account practices to disciplinary authorities, and voluntarily completed trust account school.

Through this conduct, Barson violated Colo. RPC 1.5(f) (a lawyer does not earn fees until a benefit is conferred on the client or the lawyer performs a legal service); Colo. RPC 1.15A (setting forth requirements for lawyers regarding property of clients and third parties); and Colo. RPC 1.15D (a lawyer shall maintain trust account records).