

People v. Thomas Blumenthal. 21PDJ025. September 16, 2021.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Thomas Blumenthal (attorney registration number 15549) for one year and one day, with six months to be served and six months and one day to be stayed upon the successful completion of a two-year period of probation, with conditions. The suspension takes effect December 1, 2021.

In March 2018, Blumenthal entered a written fee agreement to represent a client in a criminal case for \$2,500.00. The agreement, which stated that the \$2,500.00 was an initial retainer that was earned upon receipt, did not contain any milestones or benchmarks describing how Blumenthal would earn the retainer. Blumenthal accepted \$400.00 in cash from his client at the time of the engagement but did not deposit it into a trust account. The client gave Blumenthal jewelry as collateral toward the balance of the retainer; Blumenthal placed the jewelry in an unlocked drawer in his office and later transferred the jewelry to an unlocked credenza in a new office. At a court appearance that month, the client gave Blumenthal a set of coins as additional collateral, which Blumenthal stored on a shelf in his laundry room. In June 2018, Blumenthal accepted \$2,100.00 in cash from his client but did not deposit the money into his trust account. On July 10, 2018, the client asked Blumenthal for the discovery in the case. Blumenthal said he would produce it within three days but did not do so for several weeks. He formally entered his appearance in his client's case and requested discovery on July 17, 2018. The next day, the prosecution sent his client the discovery, which had been available since March 2018. In August 2018, the client demanded that Blumenthal return the jewelry and coins, but Blumenthal could not find them. The client hired a new lawyer to replace Blumenthal, and Blumenthal paid the lawyer \$3,000.00 from his trust account even though he was not holding any of his client's funds in the account. Blumenthal did not know whether the money he used from his trust account was unearned funds from other clients or Blumenthal's earned funds that he had commingled with unearned funds, as he did not maintain financial records for his trust account. Blumenthal eventually located the jewelry, which he returned to his former client in December 2018, and the coins, which he provided to disciplinary authorities in September 2020.

Through this conduct, Blumenthal violated Colo. RPC 1.3 (a lawyer shall act with reasonable diligence and promptness when representing a client); 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(a) (a lawyer shall hold client property separate from the lawyer's own property); Colo. RPC 1.15D (a lawyer shall maintain trust account records); and Colo. RPC 1.16(d) (a lawyer shall protect a client's interests upon termination of the representation, including by giving reasonable notice to the client and returning any papers and property to which the client is entitled).

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