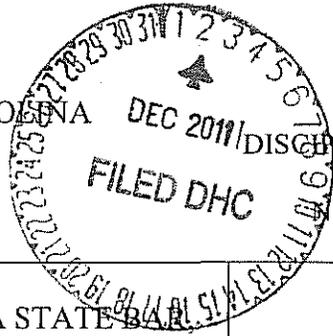


STATE OF NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
11 DHC 22

THE NORTH CAROLINA STATE BAR

Plaintiff

v.

LISA B. ARNOLD, Attorney,

Defendant

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER OF DISCIPLINE

THIS MATTER was considered before a hearing panel of the Disciplinary Hearing Commission composed of Sharon B. Alexander, Chair, Joshua W. Willey, Jr., and Joseph Barlow Herget. Barry S. McNeill, Deputy Counsel, represented Plaintiff, the North Carolina State Bar. Defendant, Lisa B. Arnold, did not respond to Plaintiff's motions for default or otherwise make an appearance, and was not represented by legal counsel.

Based upon the facts alleged in the Complaint that pursuant to 27 N.C.A.C. 1B § .0114(f) and Rule 8(d) of the North Carolina Rules of Civil Procedure are deemed admitted by Defendant's default and the resulting Default Judgment in this matter, as well as the undisputed evidence appearing of record, the Hearing Panel makes by clear, cogent, and convincing evidence the following:

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar ("State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the North Carolina General Statutes, and the Rules and Regulations of the North Carolina State Bar (Chapter 1 of Title 27 of the North Carolina Administrative Code).
2. Defendant, Lisa B. Arnold ("Arnold" or "Defendant"), was admitted to the State Bar on August 24, 2001, and is, and was at all times referred to herein, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar, and the Rules of Professional Conduct.
3. During the relevant periods referred to herein, Arnold was engaged in the practice of law in the State of North Carolina at a law office in Cary, Wake County, North Carolina, Bunn & Arnold, PLLC ("Bunn & Arnold").
4. The Bunn & Arnold Operating Agreement signed by the partners, including Arnold, in December of 2006 required that all fees earned by the partners be deposited into

the Bunn & Arnold operating account and that the members of the firm must maintain a positive capital account (after payment of their percentage of the firm's expenses) in order to draw income.

5. In early 2008, Arnold became the managing partner for Bunn & Arnold, with primary responsibility for the firm's issuance of checks, making of deposits, and meeting monthly with the bookkeeper.

6. Effective as of August 29, 2007, the State Bar administratively suspended Arnold from the practice of law due to her failure to comply with mandatory continuing legal education ("CLE") requirements. Arnold has not been reinstated to active membership in the State Bar.

7. Jo Stanley Tyler ("Tyler") retained Arnold on June 18, 2008 to close the sale of her business, The Teacher's Store, LLC, to purchasers Stephen E. Hopfer and Angela D. Hopfer (the "Hopfers").

8. Arnold charged Tyler a \$3,500 fee for closing the sale of Tyler's business.

9. Arnold held herself out to Tyler from May of 2008 through early September of 2009 as an active member of the State Bar authorized to practice law in North Carolina.

10. Arnold undertook legal representation of Tyler from May of 2008 through early September of 2009 while Arnold's law license was administratively suspended.

11. On September 8, 2008, Arnold deposited into the Bunn & Arnold trust account a \$3,000 check from Tyler representing the earnest money deposit from the Hopfers for the purchase of Tyler's business.

12. The Hopfers' \$3,000 earnest money deposit was to be applied toward their purchase of Tyler's business. There was no agreement or understanding that the earnest money deposit should be disbursed in payment of any fee Tyler owed to Arnold.

13. Without the knowledge or authorization of Tyler or the Hopfers, and before the closing of the sale of Tyler's business to the Hopfers, Arnold disbursed \$2,725.00 of the Hopfers' \$3,000 earnest money deposit as attorney fees to Bunn & Arnold to be credited to Arnold's Bunn & Arnold capital account as follows:

| Check Number | Amount | Payee | Date |
|---------------------|---------------|---------------|--------------------|
| Check no. 4184 | \$2,000 | Bunn & Arnold | September 9, 2008 |
| Check no. 4188 | \$400 | Bunn & Arnold | September 24, 2008 |

| | | | |
|----------------|-------|---------------|-----------------|
| Check no. 4193 | \$325 | Bunn & Arnold | October 8, 2008 |
|----------------|-------|---------------|-----------------|

14. On or about September 24, 2008, Arnold disbursed to herself from the Hopfers' earnest money deposit in the Bunn & Arnold trust account check no. 4189 in the amount of \$275.

15. On April 3, 2009, another law firm closed the sale of Tyler's business to the Hopfers. Arnold contacted the settlement attorney and informed him that she already had the Hopfers' \$3,000 in earnest money in the Bunn & Arnold trust account such that instead of Arnold receiving a \$3,500 fee for the closing, the settlement attorney should disburse only a balance of \$500 to Bunn & Arnold.

16. Arnold's representation to the settlement attorney that she had \$3,000 of the Hopfers' earnest money in the Bunn & Arnold trust account at that time was false.

17. On April 6, 2009, the settlement attorney wired Tyler's closing proceeds (\$115,128.71) plus \$500 to the Bunn & Arnold trust account for disbursement.

18. The \$115,128.71 was delivered to Arnold in trust to be held in the Bunn & Arnold trust account for the benefit of Tyler.

19. On April 9, 2009, Tyler met with Arnold. Tyler agreed to pay Arnold an additional \$4,000 fee for negotiating settlements with Tyler's vendors and paying remaining debts of The Teacher's Store from the sale proceeds held in trust by Arnold. Tyler agreed to pay Bunn & Arnold \$2,000 in advance that same date from Tyler's funds in the Bunn & Arnold trust account, with the balance due upon Arnold's completion of the agreed-upon legal services.

20. After making the agreed disbursement of \$2,000 to Bunn & Arnold as set forth in paragraph 19, Arnold made unauthorized disbursements to the Bunn & Arnold operating account from Tyler's funds in the Bunn & Arnold trust account, including check no. 4297 in the amount of \$2,045.23 on April 14, 2009 and check no. 4309 in the amount of \$2,000 on April 29, 2009.

21. Arnold made entries in the Bunn & Arnold accounting system representing that the deposits made in the Bunn & Arnold operating account set forth in paragraph 20 were attorney fee receipts and/or expense reimbursements from Tyler.

22. Arnold's accounting entries set forth in paragraph 21 were false.

23. Arnold misappropriated to her personal use and benefit the \$4,045.23 set forth in paragraph 20.

24. On or about May 29, 2009, without Tyler's authorization, Arnold disbursed to the Bunn & Arnold operating account check no. 4323 in the amount of \$5,000 from Tyler's funds in the Bunn & Arnold trust account.

25. On June 10, 2009, Arnold made an entry in the Bunn & Arnold accounting system representing that she had made a capital contribution to Bunn & Arnold in the amount of \$5,000.

26. Arnold's accounting entry set forth in paragraph 25 was false.

27. Arnold misappropriated to her personal use and benefit the \$5,000 set forth in paragraph 24.

28. On or about July 13, 2009, Arnold forwarded to Tyler a worksheet which purported to account for the fiduciary funds received and disbursed by Arnold on behalf of Tyler.

29. In her worksheet, Arnold represented to Tyler that she had offered settlement amounts of \$1,000 to the Evan-Moor Corporation and \$1,750 to the Melissa & Doug vendor, when in fact Arnold had offered those creditors \$350 and \$700 respectively.

30. In her worksheet, Arnold represented to Tyler that she had paid certain amounts to vendors and creditors, including the following: \$14,546.17 in payment of "taxes"; \$625 to Carson Dellosa; \$325 to Creative Teaching; and \$875 to Teacher Created.

31. Arnold's representations set forth in paragraph 30 were false as Arnold actually paid the following amounts: \$9,823.17 to the North Carolina Department of Revenue, a discrepancy of \$4,723; \$210 to Carson Dellosa, a discrepancy of \$415, but payment was not made by Arnold to Dellosa until August 19, 2009, over one month after Arnold provided the worksheet to Tyler; \$185 to Creative Teaching, a discrepancy of \$140; and \$275 to Teacher Created, a discrepancy of \$600, but payment was not made to Teacher Created until August 3, 2009, almost one month after Arnold provided the worksheet to Tyler.

32. Following the receipt of Tyler's fiduciary funds on April 6, 2009, Arnold disbursed from the Bunn & Arnold trust account to herself a total of \$4,200 as follows:

| Check Number | Amount | Payee | Date |
|---------------------|---------------|---------------|----------------|
| Check no. 4284 | \$500 | Bunn & Arnold | April 7, 2009 |
| Check no. 4273 | \$500 | Arnold | April 10, 2009 |
| Check no. 4294 | \$500 | Arnold | April 13, 2009 |
| Check no. 4304 | \$500 | Arnold | April 17, 2009 |

| | | | |
|----------------|---------|--------|----------------|
| Check no. 4305 | \$1,000 | Arnold | April 20, 2009 |
| Check no. 4306 | \$750 | Arnold | April 22, 2009 |
| Check no. 4322 | \$150 | Arnold | May 28, 2009 |
| Check no. 4324 | \$300 | Arnold | June 23, 2009 |

33. In her July 13, 2009 worksheet, Arnold represented to Tyler that she had disbursed attorney fees to Bunn & Arnold in the amount of \$2,500 from the funds held in the Bunn & Arnold trust account for the benefit of Tyler.

34. The representation set forth in paragraph 33 was false.

35. In fact, at the time she made the representation set forth in paragraph 33, Arnold had disbursed to Bunn & Arnold and/or to herself a total of \$18,245.23 in purported attorney fees, \$10,745.23 more than the \$7,500 Tyler agreed to pay in attorney fees.

36. On October 6, 2009, Tyler filed a grievance with the State Bar. The grievance was assigned file number 09G1189.

37. On January 26, 2010, the State Bar served its Letter of Notice upon Arnold by certified mail regarding grievance file number 09G1189.

38. The Letter of Notice notified Arnold that she must provide a written response within 15 days. Arnold did not respond within that period.

39. On June 3, 2010, the Wake County Superior Court entered a Consent Order of Preliminary Injunction (“Consent Order”).

40. The Consent Order required Arnold to “immediately produce to the North Carolina State Bar for inspection and copying all of [her] financial records relating to any account into which client or fiduciary funds have been deposited, including, but not limited to bank statements, canceled checks, deposit slips, client ledgers, check stubs, debit memos and any other records relating to the receipt and disbursement of client and/or fiduciary funds.”

41. On June 17, 2010, the State Bar sent Arnold a letter demanding that she produce on or before June 22, 2010, certain bank records as required by the Consent Order.

42. Arnold failed to provide her bank records as required by the Consent Order, and otherwise failed to respond to the State Bar’s June 17, 2010 demand for the bank records.

43. In 2008, Alfonso J. Vergara (“Vergara”) sought Arnold’s legal services to obtain a small business loan for his business, Summa General Contractors, LLC (“Summa”).

44. Arnold held herself out to Vergara at the time as an active member of the State Bar authorized to practice law in North Carolina.

45. Vergara and Summa proceeded with the construction project without the loan.

46. Vergara did not pay Arnold or Bunn & Arnold any fee or other funds to be held in trust for him or Summa.

47. On October 8, 2008, Arnold disbursed to herself from the Bunn & Arnold trust account check no. 4192 in the amount of \$800. Arnold wrote "Vergara atty fee" on the memo line of this check.

48. On October 8, 2008, Arnold disbursed to Bunn & Arnold from the Bunn & Arnold trust account check no. 4194 in the amount of \$1,000. Arnold wrote "Vergara" on the memo line of this check.

49. On October 9, 2008, Arnold made an entry in the Bunn & Arnold accounting system indicating that Vergara had paid Bunn & Arnold an attorney fee by check in the amount of \$1,000 and that this \$1,000 had been deposited into the Bunn & Arnold operating account. That same date, Arnold credited her Bunn & Arnold capital account with the \$1,000 attorney fee from Vergara.

50. Arnold's accounting entries set forth in paragraph 49 were false.

51. On October 14, 2008, Arnold disbursed to herself from the Bunn & Arnold trust account check no. 4197 in the amount of \$202. Arnold wrote "Vergara - exp reimbursement" on the memo line of this check.

52. On October 20, 2008, Arnold disbursed to herself from the Bunn & Arnold trust account check no. 4199 in the amount of \$1,000. Arnold wrote "Atty fee - Vergara" on the memo line of this check.

53. Arnold made entries in the Bunn & Arnold accounting system representing that check nos. 4192, 4194, 4197, and 4199 were disbursed from the Bunn & Arnold trust account on October 28, 2008.

54. In fact, Arnold had written check nos. 4192, 4194, 4197, and 4199 all before October 28, 2008.

55. Arnold's accounting entries set forth in paragraph 53 were false.

56. Arnold made entries in the Bunn & Arnold accounting system representing that the payee in check nos. 4192 and 4199 was Bunn & Arnold.

57. Arnold was the payee on check no. 4192 and check no. 4199 was payable to both Bunn & Arnold and Arnold individually.

58. Arnold's accounting entries set forth in paragraph 56 were false.

59. Arnold made an entry in the Bunn & Arnold accounting system representing that check nos. 4192, 4194, 4197, and 4199 were disbursed on October 29, 2008 from a \$3002 trust account deposit on behalf of Summa.

60. At no time did the Bunn & Arnold trust account contain any funds held for the benefit of Vergara or Summa.

61. Arnold's accounting entry set forth in paragraph 59 was false.

62. Arnold represented Kevin Manning ("Manning") and his business, AR Partners, in the sale of Manning's coffee shop business.

63. Arnold held herself out to Manning as an active member of the State Bar authorized to practice law in North Carolina.

64. Arnold undertook legal representation of Manning and AR Partners while Arnold's law license was administratively suspended.

65. From funds which Bunn & Arnold held in escrow in its trust account for the benefit of AR Partners, and without authorization, Arnold disbursed to herself the following checks:

| Check Number | Amount | Payee | Date |
|---------------------|---------------|----------------|-------------------|
| Check no. 4203 | \$250 | Arnold | October 23, 2008 |
| Check no. 4215 | \$300 | Arnold | November 19, 2008 |
| Check no. 4262 | \$250 | "B & A"/Arnold | February 10, 2009 |

66. Arnold made entries in the Bunn & Arnold accounting system representing that check nos. 4203, 4215, and 4262 were payable to Bunn & Arnold.

67. Arnold was the payee on check nos. 4203 and 4215, and check no. 4262 was payable to both "B & A" and Arnold individually.

68. Arnold's accounting entries set forth in paragraph 66 were false.

69. Arnold did not deposit check nos. 4203, 4215, and 4262 into the Bunn & Arnold operating account.

70. Arnold misappropriated to her personal use a total of \$800 of the entrusted funds of AR Partners.

71. Arnold represented Shawn Whisnant (“Whisnant”) and his business, Whatowl, in the sale of Whisnant’s restaurant and in a tax matter.

72. Arnold held herself out to Whisnant as an active member of the State Bar authorized to practice law in North Carolina.

73. Arnold provided legal services to Whisnant and Whatowl while Arnold’s law license was suspended.

74. From funds which Bunn & Arnold held in its trust account for the benefit of Whisnant and/or Whatowl, and without authorization, Arnold disbursed to herself check no. 4214 in the amount of \$500 on November 18, 2008.

75. Arnold made an entry in Bunn & Arnold’s accounting system representing that check no. 4214 was payable to Bunn & Arnold.

76. In fact, check no. 4214 was payable to both Bunn & Arnold and Arnold individually.

77. Arnold’s accounting entry set forth in paragraph 75 was false.

78. Arnold did not deposit check no. 4214 into the Bunn & Arnold operating account.

79. Arnold misappropriated to her personal use a total of \$500 of the entrusted funds of Whisnant and/or Whatowl.

80. Arnold represented Jonathan Schroer, a member of the Board of Directors of a Montessori grade school, against other board members.

81. Arnold held herself out to Schroer as an active member of the State Bar authorized to practice law in North Carolina.

82. Arnold undertook legal representation of Schroer while Arnold’s law license was administratively suspended.

83. From funds which Bunn & Arnold held in the Bunn & Arnold trust account for Schroer, and without authorization, Arnold disbursed to herself the following checks:

| Check Number | Amount | Payee | Date |
|---------------------|---------------|--------------|-------------------|
| Check no. 4227 | \$500 | Arnold | December 26, 2008 |

| | | | |
|----------------|---------|--------|----------------|
| Check no. 4278 | \$200 | Arnold | March 20, 2009 |
| Check no. 4279 | \$1,250 | Arnold | March 24, 2009 |

84. Arnold made entries in Bunn & Arnold's accounting system representing that check nos. 4227, 4278, and 4279 were payable to Bunn & Arnold.

85. Arnold's accounting entries set forth in paragraph 84 were false.

86. Arnold did not deposit check nos. 4227, 4278, and 4279 into the Bunn & Arnold operating account.

87. Arnold misappropriated to her personal use a total of \$1,950 of the entrusted funds of Schroer.

88. Arnold represented Cathy Cummings ("Cummings") and her business CAS Properties, LLC ("CAS"), in a series of real estate closings.

89. Arnold held herself out to Cummings as an active member of the State Bar authorized to practice law in North Carolina.

90. CAS agreed to pay Bunn & Arnold attorney fees totaling \$3,250.

91. Arnold undertook legal representation of Cummings and CAS while Arnold's law license was administratively suspended.

92. From funds which Bunn & Arnold held in the Bunn & Arnold trust account for CAS, and without authorization, Arnold disbursed to herself the following checks:

| Check Number | Amount | Payee | Date |
|---------------------|---------------|----------------------|-------------------|
| Check no. 4225 | \$600 | Bunn & Arnold/Arnold | December 7, 2008 |
| Check no. 4226 | \$600 | Arnold | December 23, 2008 |

93. Arnold made entries in Bunn & Arnold's accounting system representing that check nos. 4225 and 4226 were payable to Bunn & Arnold.

94. Check no. 4225 was payable to both Bunn & Arnold and Arnold individually, and check no. 4226 was payable to Arnold.

95. Arnold's accounting entries set forth in paragraph 93 were false.
96. Arnold did not deposit checks nos. 4225 and 4226 into the Bunn & Arnold operating account.
97. Arnold misappropriated to her personal use a total of \$1,200 of the attorney fees which CAS paid to Bunn & Arnold.
98. Arnold represented Swift Creek Baptist Church in the purchase of a parcel of real estate.
99. Arnold held herself out to Swift Creek Baptist Church as an active member of the State Bar authorized to practice law in North Carolina.
100. Swift Creek Baptist Church agreed to pay Bunn & Arnold attorney fees totaling \$1,725 plus expenses of \$50.
101. Arnold undertook legal representation of Swift Creek Baptist Church while Arnold's law license was administratively suspended.
102. From funds which Bunn & Arnold held in the Bunn & Arnold trust account for Swift Creek Baptist Church, and without authorization, Arnold disbursed to herself check no. 4263 in the amount of \$225 on February 27, 2009.
103. Arnold entered check no. 4263 in Bunn & Arnold's accounting system as being payable to Bunn & Arnold, rather than to Arnold individually.
104. Arnold's accounting entry set forth in paragraph 103 was false.
105. Arnold did not deposit check no. 4263 into the Bunn & Arnold operating account as required by Bunn & Arnold's Operating Agreement.
106. Arnold misappropriated to her personal use a total of \$225 of the attorney fees and expenses which Swift Creek Baptist Church paid to Bunn & Arnold.
107. Arnold represented Brandon S. Laroque ("Laroque") and his business, Scapegoat, Inc. ("Scapegoat"), in the sale of Laroque's coffee shop business.
108. Arnold held herself out to Laroque as an active member of the State Bar authorized to practice law in North Carolina.
109. Laroque, on behalf of Scapegoat, agreed to pay Bunn & Arnold attorney fees totaling \$1,800.
110. Arnold undertook legal representation of Laroque and Scapegoat while Arnold's law license was administratively suspended.

111. From funds which Bunn & Arnold held in the Bunn & Arnold trust account for Scapegoat, and without authorization, Arnold disbursed to herself check no. 4207 in the amount of \$500 on November 11, 2008.

112. Arnold made an entry in Bunn & Arnold's accounting system representing that check no. 4207 was payable to Bunn & Arnold.

113. Check no. 4207 was payable to both Bunn & Arnold and Arnold individually.

114. Arnold's accounting entry set forth in paragraph 112 was false.

115. Arnold did not deposit check no. 4207 into the Bunn & Arnold operating account.

116. Arnold misappropriated to her personal use a total of \$500 of the attorney fees which Scapegoat paid to Bunn & Arnold.

117. In September 2007, Christopher Eddy of Career Foundations, Inc. ("Career Foundations") retained Arnold to commence a civil action in Wake County District Court against Eli Research, Inc.

118. Arnold filed the lawsuit, *Career Foundations, Inc. v. Eli Research, Inc.*, No. 07-CV-015036 on September 19, 2007, approximately three weeks after her law license was suspended.

119. Starting on September 27, 2007, and while her law license was administratively suspended, Arnold began settlement negotiations with Brian Knight, attorney for Eli Research, Inc.; reached a settlement agreement with Eli Research, Inc.; executed the settlement agreement as counsel on behalf of Career Foundations; and, reviewed and amended contracts for Career Foundations.

120. As compensation for the legal services provided, Career Foundations paid Arnold at least \$2,356.

121. The settlement agreement provided that Arnold would file a dismissal with prejudice of the lawsuit within five business days of Career Foundations' receipt of the first of three settlement payments. Arnold received the first settlement payment from Eli Research, Inc. on January 31, 2008.

122. Arnold charged Career Foundations a fee of \$210 for the drafting and filing of the dismissal.

123. Arnold never filed the dismissal.

124. On May 6, 2010, Eddy filed a grievance with the State Bar against Arnold. The grievance was assigned file number 10G0435.

125. On June 4, 2010, Arnold was served by certified mail with the State Bar's Letter of Notice regarding grievance file number 10G0435.

126. The Letter of Notice notified Arnold that she must provide a written response within fifteen days of receipt of the Letter of Notice.

127. Arnold did not provide a written response to the Letter of Notice within the required time.

128. While her license to practice law was suspended, Arnold held herself out on the Bunn & Arnold website as an active member of the State Bar authorized to practice law in North Carolina.

129. On August 17, 2009, the State Bar filed a grievance (09G0975) concerning Arnold's unauthorized practice of law.

130. On August 21, 2010, the State Bar served Arnold by certified mail with the Letter of Notice in grievance file number 09G0975.

131. The Letter of Notice notified Arnold that she must provide a written response within fifteen days of receipt of the Letter of Notice.

132. Arnold did not provide a written response within the required time.

133. On June 19, 2009, Arnold made an entry in the Bunn & Arnold accounting system representing that her client Sewaia had paid Bunn & Arnold an attorney fee in the amount of \$600 and that this \$600 had been deposited into the Bunn & Arnold operating account.

134. Sewaia did not make such a payment to Bunn & Arnold and no such deposit was made into the Bunn & Arnold operating account.

135. Arnold's accounting entry set forth in paragraph 133 was false.

136. On June 19, 2009, Arnold made an entry in the Bunn & Arnold accounting system representing that her client Cardoso had paid Bunn & Arnold an attorney fee in the amount of \$500 and that this \$500 had been deposited into the Bunn & Arnold operating account.

137. Cardoso did not make such a payment to Bunn & Arnold and no such deposit was made into the Bunn & Arnold operating account.

138. Arnold's accounting entry set forth in paragraph 136 was false.

139. On June 29, 2009, Arnold made an entry in the Bunn & Arnold accounting system representing that her client Bassi had paid Bunn & Arnold an attorney fee in the amount of \$100 and that this \$100 had been deposited into the Bunn & Arnold operating account.

140. Bassi did not make such a payment to Bunn & Arnold and no such deposit was made into the Bunn & Arnold operating account.

141. Arnold's accounting entry set forth in paragraph 139 was false.

142. On July 8, 2009, Arnold made an entry in the Bunn & Arnold accounting system representing that her client Career Foundations had paid Bunn & Arnold an attorney fee in the amount of \$725 and that this \$725 had been deposited into the Bunn & Arnold operating account.

143. Career Foundations did not make such a payment to Bunn & Arnold and no such deposit was made into the Bunn & Arnold operating account

144. Arnold's accounting entry set forth in paragraph 142 was false.

145. Arnold made the above-referenced false entries in the Bunn & Arnold accounting system for the purpose of deceiving others into believing she had a positive balance of funds in her capital account.

CONCLUSIONS OF LAW

1. The Hearing Panel has jurisdiction over Defendant, Lisa B. Arnold, and over the subject matter.

2. Default was properly entered against Arnold for her failure to timely file an answer or other responsive pleading to the Complaint.

3. Pursuant to 27 N.C. Admin. Code 1B § .0114(f) and Rule 8(d) of the North Carolina Rules of Civil Procedure, the allegations in the State Bar's Complaint are deemed admitted by Arnold and the violations of the Rules of Professional Conduct set out in the Complaint are deemed admitted by Arnold as a matter of law.

4. Knowing and willful misappropriation of money by a fiduciary constitutes the crime of embezzlement under N.C. Gen. Stat. § 14-90. Embezzlement is a felony.

5. In 2008 and 2009, Arnold knowingly and willfully misappropriated entrusted funds on multiple occasions.

6. Arnold's conduct, as set forth in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. §§ 84-28(b)(2) and (b)(3) in that Arnold violated the Rules of Professional Conduct as follows:

a) By holding herself out to clients Tyler, Vergara, Manning and AR Partners, Whisnant and Whatowl, Schroer, Cummings, Swift Creek Baptist Church, Laroque, and Eddy and Career Foundations, and on the Bunn & Arnold website as an active member of the State Bar authorized to practice law in North Carolina at a time when her law license was suspended, and by undertaking to provide and providing legal

services to these clients while her law license was suspended, Arnold engaged in the unauthorized practice of law in violation of Rules 5.5(a) and 5.5(b)(2), made false or misleading statements about her or her practice in violation of Rule 7.1(a), and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c);

b) By taking payments from Tyler for legal services which she falsely represented she had performed but had not in fact performed, and by making disbursements to herself and to Bunn & Arnold in excess of the fees Tyler had agreed to pay, Arnold charged and collected an illegal or clearly excessive fee in violation of Rule 1.5(a);

c) By failing to pay Tyler's identified vendors and creditors from Tyler's entrusted funds, Arnold failed to promptly pay these third persons as directed by Tyler in violation of Rule 1.15-2(m);

d) By making false entries into the Bunn & Arnold accounting system, by failing to deposit trust account disbursements into the Bunn & Arnold operating account as required by Bunn & Arnold's Operating Agreement, and by falsely representing that she had paid Tyler's identified vendors and creditors in amounts greater than what she actually did, Arnold engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c) and committed criminal acts that reflect adversely on her honesty, trustworthiness or fitness as a lawyer in violation of Rule 8.4(b);

e) By disbursing to herself and to the Bunn & Arnold operating account funds held in trust for the benefit of Bunn & Arnold's clients without authorization to do so, Arnold used entrusted property for her personal benefit in violation of Rule 1.15-2(j) and committed criminal acts that reflect adversely on her honesty, trustworthiness or fitness as a lawyer in violation of Rule 8.4(b);

f) By disbursing to herself attorney fees that belonged to Bunn & Arnold, Arnold committed criminal acts that reflect adversely on her honesty, trustworthiness or fitness as a lawyer in violation of Rule 8.4(b);

g) By failing to respond to the State Bar's Letters of Notice regarding the grievances filed in file nos. 09G1189, 09G0975 and 10G0435, and by failing to respond to the State Bar's letter demanding that she produce certain bank records as required by the Consent Order, Arnold failed to respond as required to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b) and N.C. Gen. Stat. § 84-28(b)(3); and,

h) By failing to file the dismissal with prejudice of the lawsuit in *Career Foundations, Inc. v. Eli Research, Inc.*, No. 07-CV-015036, Arnold failed to act with reasonable diligence and promptness in representing her client in violation of Rule 1.3.

Based upon the foregoing Findings of Fact and Conclusions of Law, the Hearing Panel hereby makes by clear, cogent and convincing evidence the following:

ADDITIONAL FINDINGS OF FACT REGARDING DISCIPLINE

1. The findings in paragraphs 1-145 above are reincorporated as if set forth herein.
2. Arnold has substantial experience in the practice of law.
3. Arnold's conduct involved misappropriation, misrepresentation and deceit over a substantial period of time.
4. Arnold, by engaging in conduct involving misappropriation, misrepresentation and deceit for a substantial period of time, has shown herself to be untrustworthy.
5. Arnold converted to her own use and benefit entrusted funds that should have been available for the use of Bunn & Arnold's clients.
6. Arnold put her own personal interests ahead of the interests of Bunn & Arnold's clients.
7. Arnold misappropriated funds from Bunn & Arnold's clients and Bunn & Arnold itself.
8. Bunn & Arnold's clients were particularly susceptible to Arnold's theft because they entrusted Arnold to protect and account for the funds placed in her and Bunn & Arnold's trust account.
9. Arnold's misappropriations damaged her and Bunn & Arnold's clients, as well as the firm itself, and can only have a negative impact on these clients and the public's perception of the legal profession.
10. Arnold has repeatedly failed to communicate with the State Bar and to participate in the self-regulatory process.
11. Arnold failed to answer the State Bar's Complaint and failed to participate in this matter before the Hearing Panel.
12. Arnold's failure to comply with the administrative rules applicable to members of the legal profession demonstrates an inability to conform her conduct to the requirements of the State Bar and the Rules of Professional Conduct.
13. Arnold's failure to respond to the disciplinary process interfered with the State Bar's ability to regulate attorneys and undermined the privilege of lawyers in this State to remain self-regulating.
14. Arnold has no prior record of disciplinary offenses.

Based on the foregoing Findings of Fact, Conclusions of Law and Additional Findings of Fact Regarding Discipline, the Hearing Panel enters the following:

CONCLUSIONS OF LAW REGARDING DISCIPLINE

1. The Hearing Panel has considered all of the factors contained in 27 N.C.A.C. 1B § .0114(w)(1), the Rules and Regulations of the State Bar, and concludes that the following factors are present:

- a. intent of the defendant to commit acts where the harm or potential harm was foreseeable;
- b. circumstances reflecting the defendant's lack of honesty, trustworthiness, or integrity;
- c. elevation of the defendant's own interest above that of the client;
- d. the negative impact of the defendant's actions on the administration of justice;
- e. impairment of clients' ability to achieve the goals of the representation;
- f. acts of dishonesty, misrepresentation, deceit, or fabrication; and,
- g. multiple instances of failure to participate in the legal profession's self-regulation process.

2. The Hearing Panel has considered all of the factors enumerated in 27 N.C.A.C. 1B § .0114(w)(2), the Rules and Regulations of the State Bar, and concludes that acts of dishonesty, misrepresentation, deceit, fabrication, misappropriation, and commission of felonies are present in this case, and that these factors warrant disbarment in order to protect the public.

3. The Hearing Panel has considered all of the factors enumerated in 27 N.C.A.C. 1B § .0114(w)(3), the Rules and Regulations of the State Bar, and concludes that the following factors are applicable in this matter:

- a. lack of timely good faith efforts to make restitution or to rectify the consequences of her conduct;
- b. dishonest or selfish motive;
- c. pattern of misconduct;
- d. multiple offenses;
- e. lack of cooperative attitude toward the disciplinary proceedings;

- f. bad faith obstruction of the disciplinary proceedings by failing to comply with rules or orders of the disciplinary agency;
- g. refusal to acknowledge wrongful nature of her conduct;
- h. the vulnerability of the victims; and,
- i. Arnold's significant experience in the practice of law.

4. Arnold's failure to respond to the State Bar and failure to participate in the disciplinary process caused harm to the legal profession by interfering with the State Bar's ability to regulate attorneys and by undermining the privilege of lawyers in this State to remain self-regulating.

5. Arnold's conduct caused significant harm or potential significant harm to her clients, the administration of justice and the legal profession in that her actions bring the legal profession into disrepute.

6. The Hearing Panel has considered lesser alternatives and finds that discipline short of disbarment would not adequately protect the public for the following reasons:

a) Arnold committed misdeeds involving moral turpitude and violations of her clients' trust, including fraudulent conduct, material misrepresentations, misappropriations of entrusted funds, and deceit. Misconduct involving misappropriation and dishonesty are among the most serious that an attorney can commit. Such offenses demonstrate that the offending attorney is not trustworthy. Clients are entitled to have trustworthy attorneys;

b) Arnold repeatedly engaged in criminal acts reflecting adversely on her honesty, trustworthiness or fitness as a lawyer, and engaged in abuses of trust by misappropriating funds entrusted to her;

c) Entry of an order imposing less serious discipline would fail to acknowledge the seriousness of the offenses Arnold committed and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar of this State; and,

d) The protection of the public and the legal profession requires that Arnold not be permitted to resume the practice of law until she demonstrates the following: that she has reformed; that she understands her obligations to her clients, the public, and the legal profession; and, that permitting her to practice law will not be detrimental to the public or the integrity and standing of the legal profession or the administration of justice. Disbarred lawyers are required to make such a showing before they may resume practicing law.

Based upon the foregoing Findings of Fact, Conclusions of Law, Additional Findings of Fact Regarding Discipline, and Conclusions of Law Regarding Discipline, the Hearing Panel hereby enters the following:

ORDER OF DISCIPLINE

1. The Defendant, Lisa B. Arnold, is hereby DISBARRED from the practice of law.
2. Arnold shall surrender her law license and membership card to the Secretary of the State Bar no later than thirty (30) days following the date that this Order is served upon her.
3. Arnold shall comply with all provisions of 27 N.C.A.C. 1B § .0124 of the North Carolina State Bar Discipline and Disability Rules.
4. Arnold shall pay the costs and administrative fees of this proceeding within thirty (30) days of service of the statement of costs and administrative fees upon her by the Secretary of the State Bar.

Signed by the Chair with the full knowledge and consent of the other hearing panel members, this the 02 day of ~~November~~, 2011.

December



Sharon B. Alexander, Chair
Disciplinary Hearing Panel