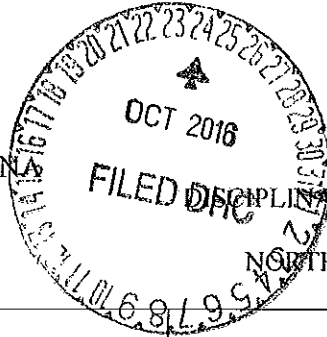


STATE OF NORTH CAROLINA  
WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
16 DHC 16

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

R. ALFRED PATRICK, Attorney,

Defendant

ORDER OF DISCIPLINE

THIS MATTER was considered by a Hearing Panel of the Disciplinary Hearing Commission composed of the Chair, R. Lee Farmer and members N. Hunter Wyche, Jr. and Warren G. McDonald upon Plaintiff's Motion for Order of Discipline. Jennifer A. Porter represented Plaintiff, the North Carolina State Bar. Defendant R. Alfred Patrick (hereinafter Defendant or Patrick) was not represented, did not make an appearance in this matter, and did not file any written submissions in response to Plaintiff's Motion for Order of Discipline. After review of the pleadings herein and pursuant to 27 N.C. Admin. Code § 1B.0114(f), the Hearing Panel determines it is appropriate to grant Plaintiff's Motion for Order of Discipline.

THEREFORE, based on the pleadings and the admissions established by Defendant's default pursuant to 27 N.C. Admin. Code § 1B.0114(f), the Hearing Panel hereby finds 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 General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, R. Alfred Patrick (hereinafter "Patrick" or "Defendant"), was admitted to the North Carolina State Bar in 1986, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, 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. Patrick became an inactive member of the State Bar on June 22, 2016, when he was administratively suspended for his failure to comply with membership and continuing legal education requirements.

3. The Complaint in this action was filed on April 21, 2016.
4. Defendant was served with the Summons and Complaint on June 22, 2016.
5. Defendant failed to file an answer or any responsive pleading by the deadline established by 27 N.C. Admin. Code § 1B.0114(e).
6. Upon Plaintiff's motion, default was entered against Defendant by the Secretary of the State Bar on August 17, 2016.
7. Plaintiff filed a Motion for Order of Discipline on August 17, 2016 and served the motion on that date by depositing a copy of the same in the U.S. Mail in a postage prepaid envelope addressed to Defendant's address of record.
8. During all or part of the relevant periods referred to herein, Defendant was engaged in the practice of law in Greenville, Pitt County, North Carolina.
9. In the course of his law practice, Defendant maintained and utilized an attorney trust account at The East Carolina Bank (currently operated as part of Yadkin Bank), account number ending in digits 8812 ("the trust account").
10. Defendant also had an operating account for his law practice at The East Carolina Bank, account number ending in digits 8512 ("the operating account"), and an expense account at The East Carolina Bank, account number ending in digits 7912 ("the expense account"). Defendant disbursed funds to himself and paid personal bills and expenses from both the operating account and the expense account.
11. Between November 2012 and July 2015, Defendant deposited entrusted funds for clients into the trust account, including funds for the following client matters: B. Cutler; J. Ruffin; J. Tellez and children; R. Dixon; N. Awadallah; L. Tetterton; J. Blount; D. Marshburn; S. Smith; B. Frank; M. Harris; A. Hudgins; W. Lupton; M. Best; T. Shelborne; C. Wainwright; B. Lassiter; A. Mooring; J. Reid; E. Pugh; D. Backman; R. Murphy; and J. Bailey.
12. Defendant failed to maintain his clients' entrusted funds in the trust account, as shown by the following:
  - a. As of July 24, 2013, when Defendant should have had in excess of \$47,000.00 for clients B. Cutler, J. Ruffin, and J. Reid, the balance of the trust account was \$10,683.22.
  - b. As of September 13, 2013, when Defendant should have had in excess of \$49,000.00 for clients B. Cutler, J. Ruffin, J. Reid, and J. Tellez and children, the balance of the trust account was \$2,182.56.

- c. As of November 12, 2013, when he should have had in excess of \$55,000.00 for clients B. Cutler, J. Ruffin, J. Reid, J. Tellez and children, and R. Dixon, the balance of the trust account was \$737.08.
- d. As of January 24, 2014, when Defendant should have had in excess of \$73,000.00 for clients B. Cutler, J. Ruffin, J. Reid, J. Tellez and children, N. Awadallah, L. Tetterton, J. Blount, D. Marshburn, S. Smith, and B. Frank, the balance of the trust account was \$11,651.70.
- e. As of February 4, 2014, when Defendant should have had in excess of \$73,000.00 for clients B. Cutler, J. Ruffin, J. Reid, J. Tellez and children, N. Awadallah, L. Tetterton, J. Blount, D. Marshburn, S. Smith, B. Frank, and M. Harris, the balance of the trust account was \$8,071.86.
- f. As of February 13, 2014, when Defendant should have had in excess of \$73,000.00 for clients B. Cutler, J. Ruffin, J. Reid, J. Tellez and children, N. Awadallah, L. Tetterton, J. Blount, D. Marshburn, S. Smith, B. Frank, and M. Harris, the balance of the trust account was \$5,284.01.
- g. As of February 24, 2014, when Defendant should have had in excess of \$76,000.00 for clients B. Cutler, J. Ruffin, J. Reid, J. Tellez and children, N. Awadallah, L. Tetterton, J. Blount, D. Marshburn, S. Smith, B. Frank, M. Harris, and Z. Hudgins, the balance of the trust account was \$3,065.83.
- h. As of February 28, 2014, when Defendant should have had in excess of \$76,000.00 for clients B. Cutler, J. Ruffin, J. Reid, J. Tellez and children, N. Awadallah, L. Tetterton, J. Blount, D. Marshburn, S. Smith, B. Frank, M. Harris, and Z. Hudgins, the balance of the trust account was \$1,565.83.
- i. As of March 6, 2014, when Defendant should have had in excess of \$109,000.00 for clients B. Cutler, J. Ruffin, J. Reid, J. Tellez and children, N. Awadallah, L. Tetterton, J. Blount, D. Marshburn, S. Smith, B. Frank, M. Harris, Z. Hudgins, and W. Lupton, the balance of the trust account was \$48,899.83.
- j. As of March 31, 2014, when Defendant should have had in excess of \$109,000.00 for clients B. Cutler, J. Ruffin, J. Reid, J. Tellez and children, N. Awadallah, L. Tetterton, J. Blount, D. Marshburn, S. Smith, B. Frank, M. Harris, Z. Hudgins, and W. Lupton, the balance of the trust account was \$727.47.
- k. As of April 17, 2014, when Defendant should have had in excess of \$111,000.00 for clients B. Cutler, J. Ruffin, J. Reid, J. Tellez and children, N. Awadallah, L. Tetterton, J. Blount, D. Marshburn, S. Smith, B. Frank, M. Harris, Z. Hudgins, W. Lupton, and M. Best, the balance of the trust account was \$3,737.67.

- i. As of May 12, 2014, when Defendant should have had in excess of \$117,000.00 for clients B. Cutler, J. Ruffin, J. Reid, J. Tellez and children, N. Awadallah, L. Tetterton, J. Blount, D. Marshburn, S. Smith, B. Frank, M. Harris, Z. Hudgins, W. Lupton, M. Best, and T. Shelborne, the balance of the trust account was \$833.17.
- m. As of June 11, 2014, when Defendant should have had in excess of \$122,000.00 for clients B. Cutler, J. Ruffin, J. Reid, J. Tellez and children, N. Awadallah, L. Tetterton, J. Blount, D. Marshburn, S. Smith, B. Frank, M. Harris, Z. Hudgins, W. Lupton, M. Best, and T. Shelborne, and C. Wainwright, the balance of the trust account was \$568.45.
- n. As of July 28, 2014, when Defendant should have had in excess of \$154,000.00 for clients B. Cutler, J. Ruffin, J. Reid, J. Tellez and children, N. Awadallah, L. Tetterton, J. Blount, D. Marshburn, S. Smith, B. Frank, M. Harris, Z. Hudgins, W. Lupton, M. Best, and T. Shelborne, B. Lassiter, and A. Mooring, the balance of the trust account was \$21,171.12.
- o. As of August 21, 2014, when Defendant should have had in excess of \$154,000.00 for clients B. Cutler, J. Ruffin, J. Reid, J. Tellez and children, N. Awadallah, L. Tetterton, J. Blount, D. Marshburn, S. Smith, B. Frank, M. Harris, Z. Hudgins, W. Lupton, M. Best, and T. Shelborne, B. Lassiter, and A. Mooring, the balance of the trust account was \$4,687.79.
- p. As of December 1, 2014, when Defendant should have had in excess of \$167,000.00 for clients B. Cutler, J. Ruffin, J. Reid, J. Tellez and children, N. Awadallah, L. Tetterton, J. Blount, D. Marshburn, S. Smith, B. Frank, M. Harris, Z. Hudgins, W. Lupton, M. Best, and T. Shelborne, B. Lassiter, A. Mooring, and E. Pugh, the balance of the trust account was \$2,774.20.
- q. As of March 4, 2015, when Defendant should have had in excess of \$170,000.00 for clients B. Cutler, J. Ruffin, J. Reid, J. Tellez and children, N. Awadallah, L. Tetterton, J. Blount, D. Marshburn, S. Smith, B. Frank, M. Harris, Z. Hudgins, W. Lupton, M. Best, and T. Shelborne, B. Lassiter, A. Mooring, E. Pugh, and D. Backman, the balance of the trust account was \$772.65.
- r. As of April 17, 2015, when Defendant should have had in excess of \$173,000.00 for clients B. Cutler, J. Ruffin, J. Reid, J. Tellez and children, N. Awadallah, L. Tetterton, J. Blount, D. Marshburn, S. Smith, B. Frank, M. Harris, Z. Hudgins, W. Lupton, M. Best, and T. Shelborne, B. Lassiter, A. Mooring, E. Pugh, and D. Backman, the balance of the trust account was \$67.65.
- s. As of June 17, 2015, when Defendant should have had in excess of \$191,000.00 for clients B. Cutler, J. Ruffin, J. Reid, J. Tellez and children,

N. Awadallah, L. Tetterton, J. Blount, D. Marshburn, S. Smith, B. Frank, M. Harris, Z. Hudgins, W. Lupton, M. Best, and T. Shelborne, B. Lassiter, A. Mooring, E. Pugh, and D. Backman, the balance of the trust account was \$44.60.

- t. As of August 25, 2015, when Defendant should have had in excess of \$221,000.00 for clients B. Cutler, J. Ruffin, J. Reid, J. Tellez and children, N. Awadallah, L. Tetterton, J. Blount, D. Marshburn, S. Smith, B. Frank, M. Harris, Z. Hudgins, W. Lupton, M. Best, and T. Shelborne, B. Lassiter, E. Pugh, D. Backman, R. Murphy, and J. Bailey, the balance of the trust account was \$16,952.23.

13. Between November 2012 and July 2015, Defendant disbursed funds from the trust account through improper means and without proper identification of the client whose funds were being disbursed, including as follows:

- a. Electronic transfer from the trust account to his operating account with no client identification;
- b. Debit counter withdrawal from the trust account with no client identification;
- c. Checks drawn on the trust account made payable to Defendant's firm with no client identification;
- d. Checks drawn on the trust account made payable to Defendant's firm with a deceptive client identification, where the identified client had no money in the trust account at the time of the disbursement, had insufficient funds in the trust account for the disbursement, or otherwise did not owe Defendant or his firm the funds Defendant disbursed to his firm from the trust account.

14. Through the above-described means, Defendant disbursed to himself, through his firm, funds to which he was not entitled and misappropriated entrusted funds from his the trust account for his personal use and benefit.

15. Additionally, Defendant misappropriated entrusted funds by depositing entrusted funds to which he was not entitled directly into his operating account or expense account, including as follows:

- a. On November 25, 2013, Defendant deposited \$1,000.00 from National General Insurance for client D. Marshburn into the operating account.
- b. On September 8, 2015, Defendant deposited \$2,000.00 from N.C. Farm Bureau Mutual Insurance Company for client S. Goodson into the expense account.

- c. On September 17, 2015, Defendant deposited \$2,000.00 from National General Insurance for client S. Goodson into the expense account.
16. Through his misappropriation of entrusted funds, Defendant benefitted personally and alleviated personal financial need, including as follows:
- a. On December 28, 2012, Defendant disbursed \$18,333.33 from the trust account to his law firm from the personal injury settlement funds of client B. Cutler that were deposited in the trust account in November and December 2012. Defendant was only entitled to a total of \$14,709.42 in attorney's fees and costs from B. Cutler's personal injury settlement and had already disbursed \$6,666.67 to his firm from B. Cutler's personal injury settlement funds. Defendant deposited this \$18,333.33 into the operating account, which had a balance of \$5,332.71 prior to this deposit. Within 12 days following the deposit of B. Cutler's funds into the operating account, Defendant spent \$21,334.35 from the operating account, including disbursing \$7,000.00 to himself, \$1,000.00 to the expense account, and \$3,482.74 to the US Treasury, leaving a balance of \$2,331.69. By January 16, 2013, the balance of the operating account was \$267.53.
  - b. On February 15, 2013, Defendant disbursed \$4,071.90 from the trust account to his law firm attributed to client B. Cutler. Defendant was not entitled to these funds, having already disbursed to his firm more than the \$14,709.42 to which he was entitled for attorney's fees and costs from B. Cutler's personal injury settlement. Defendant deposited this \$4,071.90 into the operating account, which had a balance of \$200.00 prior to this deposit. Within 14 days following this deposit of B. Cutler's funds into the operating account, Defendant spent \$4,257.54 from the operating account, including disbursing \$1,500.00 to himself and the remainder on personal expenses. By March 1, 2013, the balance of the operating account was \$14.36.
  - c. On April 25, 2013, Defendant disbursed \$7,833.33 from the trust account to his law firm from client V. Parker's funds, instead of the \$2,833.33 fee to which he was entitled. Defendant deposited this \$7,833.33 into the operating account, which had a balance of \$491.93 prior to this deposit. Within eight days, by May 3, 2013, Defendant had spent \$7,627.55 of this \$7,833.33 from the operating account, including disbursing a total of \$4,600.00 to himself, \$70.00 to the expense account, and the remainder to pay bills and expenses.
  - d. On August 28, 2013, Defendant disbursed \$8,333.33 from the trust account to his law firm attributed to client R. Murphy. At the time of this disbursement, however, there were no funds for R. Murphy in the trust account. R. Murphy's settlement did not occur until July 2015. Defendant

deposited the \$8,333.33 from the trust account into the operating account. The balance of the operating account prior to this deposit was negative, in the amount of -\$1,620.32.

- e. On September 13, 2013, Defendant disbursed \$2,533.33 from the trust account to his law firm with no identification of any client from whose balance in the trust account the funds were being disbursed. Defendant deposited this \$2,533.33 into the operating account, which had a balance of \$120.19 prior to this deposit. Within four days, by September 17, 2013, the balance in the operating account was \$106.40. Within ten days, by September 23, 2013, the balance in the operating account was negative, in the amount of -\$1,509.55. Defendant had paid \$1,300.00 to himself from the operating account and paid for various bills and expenses.
- f. On October 15, 2013, Defendant disbursed \$2,699.99 from the trust account to his law firm attributed to client R. Dixon to which he was not entitled, having already disbursed his \$2,699.99 attorney fee in the R. Dixon case from the trust account to his firm on October 7, 2013. Defendant deposited the \$2,699.99 issued from the trust account on October 15, 2013 into the operating account on that same date. The balance of the operating account prior to this deposit was negative, in the amount of -\$73.59.
- g. On October 29, 2013, Defendant disbursed \$3,200.00 from the trust account to his law firm with no identification of any client from whose balance in the trust account the funds were being disbursed. Defendant deposited this \$3,200.00 into the operating account, which had a negative balance in the amount of -\$415.27 prior to this deposit.
- h. On November 12, 2013, Defendant disbursed \$550.00 from the trust account to his law firm attributed to client J. Blount. At the time of this disbursement, however, there were no funds for J. Blount in the trust account. No funds for J. Blount were deposited into the trust account until December 6, 2013. Defendant deposited the \$550 from the trust account into the operating account. The balance of the operating account prior to this deposit was \$23.53.
- i. On November 25, 2013, Defendant deposited \$1,000.00 of entrusted client funds for client D. Marshburn into the operating account instead of the trust account. The balance of the operating account prior to this deposit was negative, in the amount of -\$212.62.
- j. On December 13, 2013, Defendant disbursed \$10,000.00 from the trust account to his law firm with no identification of any client from whose balance in the trust account the funds were being disbursed. Defendant deposited this \$10,000.00 into the operating account, which had a balance

of \$3,496.55 prior to this deposit. By December 17, 2013, the balance in the operating account was \$1,660.19, with Defendant having paid \$9,493.75 on December 16, 2013 for six months' worth of past due rent and utilities, in addition to paying for other bills and expenses.

- k. On January 13, 2014, Defendant disbursed \$1,666.66 from the trust account to his law firm with no identification of any client from whose balance in the trust account the funds were being disbursed. Defendant deposited this \$1,666.66 into the operating account, which had a balance of \$403.81 prior to this deposit. By the following day, on January 14, 2014, the balance in the operating account was \$195.47, as a result of Defendant having issued a check to himself from the operating account for \$600.00, a check to cash for \$275.00, and paid \$1,000.00 to American Express.
- l. On February 24, 2014, Defendant disbursed \$2,100.00 from the trust account to his law firm with no identification of any client from whose balance in the trust account the funds were being disbursed. Defendant deposited this \$2,100.00 into the operating account, which had a balance of \$1,194.82 prior to this deposit. Two days later, on February 26, 2014, the balance in the operating account was \$52.47, with Defendant having issued a check to himself from the operating account for \$450.00 and paid \$1,803.75 to American Express, in addition to paying for other bills and expenses.
- m. On February 28, 2014, Defendant disbursed \$1,500.00 from the trust account to his law firm with no identification of any client from whose balance in the trust account the funds were being disbursed. Defendant deposited this \$1,500.00 into the operating account, which had a balance of \$52.47 prior to this deposit. Five days later, on March 5, 2014, the balance in the operating account was negative, in the amount of -\$1,447.41, with Defendant having issued a check to himself from the operating account for \$1,000.00 and paid various bills and expenses.
- n. On March 6, 2014, Defendant disbursed \$2,666.00 from the trust account to his law firm attributed to client B. Frank. Defendant was not entitled to these funds, having previously received his attorney's fees and costs from this client's funds in the trust account. Defendant deposited this \$2,666.00 into the operating account, which had a negative balance in the amount of -\$1,447.41 prior to this deposit.
- o. On May 5, 2014, Defendant disbursed \$1,400.00 from the trust account to his law firm with no identification of any client from whose balance in the trust account the funds were being disbursed. Defendant deposited this \$1,400.00 into the expense account, which had a balance of \$61.20 prior to this deposit. On the same date, Defendant disbursed \$1,150.00 to

himself from the expense account, leaving a balance of \$311.20. By May 7, 2014, the balance in the expense account was \$11.20.

- p. On August 7, 2014, Defendant transferred \$2,500.00 from the trust account to the operating account with no identification of any client from whose balance in the trust account the funds were being disbursed. The operating account had a negative balance of -\$2,089.66 prior to this deposit.
- q. On August 8, 2014, Defendant disbursed \$5,500.00 from the trust account to his law firm with no identification of any client from whose balance in the trust account the funds were being disbursed. Defendant deposited this \$5,500.00 into the operating account; which had a balance of \$10.34 prior to this deposit.
- r. On December 1, 2014, Defendant disbursed \$1,533.33 from the trust account to his law firm with no identification of any client from whose balance in the trust account the funds were being disbursed. Defendant deposited this \$1,533.33 into the operating account, which had a balance of \$20.76 prior to this deposit. As of December 3, 2014, the operating account had a negative balance of -\$528.57. The balance of the operating account remained negative through the end of December. After two additional months' worth of negative balances and charge-offs by the bank, the bank closed the operating account in March 2015.
- s. On December 18, 2014, Defendant disbursed \$500.00 from the trust account to his law firm with no identification of any client from whose balance in the trust account the funds were being disbursed. Defendant deposited this \$500.00 into the expense account, which had a balance of \$11.20 prior to this deposit. On the same date, Defendant disbursed \$450.00 to himself from the expense account, leaving a balance of \$61.20.
- t. On February 5, 2015, Defendant disbursed \$2,750.00 from the trust account to his law firm with no identification of any client from whose balance in the trust account the funds were being disbursed. Defendant deposited this \$2,750.00 into the expense account, which had a negative balance of -\$586.80 prior to this deposit. On the same date, Defendant disbursed \$2,070.00 to himself from the expense account, leaving a balance of \$93.20.
- u. On March 4, 2015, Defendant disbursed \$950.00 from the trust account to his law firm with no identification of any client from whose balance in the trust account the funds were being disbursed. Defendant deposited this \$950.00 into the expense account, which had a negative balance of -\$230.80 prior to this deposit.

- v. On March 25, 2015, Defendant disbursed \$125.00 from the trust account to his law firm attributed to client E. Pugh. Defendant was not entitled to these funds, having previously received his attorney's fees and costs from this client's funds in the trust account. Defendant deposited this \$125.00 into the expense account, which had a negative balance in the amount of -\$50.80 prior to this deposit. On March 26 and 27, 2015, Defendant disbursed funds from the trust account to his law firm with no client identification that he also deposited into his expense account, in the amounts of \$4,000.00 and \$1,900.00, respectively.
  - w. On September 8, 2015, Defendant deposited \$2,000.00 of entrusted client funds for client S. Goodson into the expense account. The expense account had a negative balance of -\$142.36 prior to this deposit.
  - x. On September 17, 2015, Defendant deposited \$2,000.00 of entrusted client funds for client S. Goodson into the expense account. The expense account had a negative balance of -\$338.79 prior to this deposit.
17. Defendant did not report his many acts of misappropriation to the North Carolina State Bar.
18. In June 2015, J. Reid filed a grievance with the North Carolina State Bar concerning Defendant's handling of his entrusted funds. The State Bar initiated a grievance investigation, opening file 15G0809 and requesting trust account records from Defendant.
19. In October and November 2015, the North Carolina State Bar received four additional complaints concerning Defendant's handling of entrusted funds, from or on behalf of clients of Defendant. The State Bar opened four additional grievance files: 15G1054, concerning Defendant's handling of J. Tellez's funds; 15G1115, concerning Defendant's handling of E. Pugh's funds; 15G1142, concerning Defendant's handling of W. Lupton's funds; and 15G1168, concerning Defendant's handling of D. Backman's funds.
20. On November 5, 2015, a State Bar investigator personally served Defendant with letters of notice in the three grievance files opened prior to November 2015, which were 15G0809, 15G1054, and 15G1115. Defendant had fifteen days from service to respond to the State Bar's inquiries in these disciplinary matters.
21. Defendant failed to respond to the inquiry of the State Bar in disciplinary matters 15G0809, 15G1054, and 15G1115.
22. The State Bar investigator interviewed Defendant on November 5, 2015 concerning his handling of entrusted funds. During this interview, Defendant admitted the following:

- a. He thought the records would show he deposited entrusted funds into the expense account.
- b. That when he issued checks from the trust account to pay J. Reid's medical expenses after J. Reid complained to the State Bar, other clients' funds in the trust account were used to pay those expenses.

Based upon the pleadings, Defendant's default, and the foregoing Findings of Fact, the Hearing Panel enters the following:

#### CONCLUSIONS OF LAW

1. 27 N.C. Admin. Code § 1B.0114(f) provides that, upon entry of the defendant's default by the Secretary of the State Bar, counsel may apply to the hearing committee for a default order and the hearing committee will thereupon enter an order, making findings of fact and conclusions of law based on the allegations deemed admitted upon the entry of default.

2. All parties are properly before the Hearing Committee, and the Committee has jurisdiction over Defendant and the subject matter of this proceeding.

3. A proper entry of default has been entered by the Secretary of the State Bar and Defendant has failed to file any responsive pleading in this matter.

4. The allegations of the Plaintiff's complaint are deemed admitted by the entry of default.

5. Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2), for violation of the following Rules of Professional Conduct in effect at the time of the conduct:

- (a) By disbursing to himself entrusted funds from the trust account to which he was not entitled, Defendant failed to hold and maintain separate from his property the entrusted funds of his clients in violation of Rule 1.15-2(a), used entrusted funds for his personal benefit in violation of Rule 1.15-2(j), and failed to promptly pay or deliver entrusted funds in violation of Rule 1.15-2(m);
- (b) By knowingly disbursing to himself entrusted funds to which he was not entitled, Defendant committed criminal acts that reflect adversely on his honesty, trustworthiness, or fitness in other respects in violation of Rule 8.4(b), and engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation in violation of Rule 8.4(c);
- (c) By using checks made payable to himself without client attribution, electronic transfer, and counter withdrawal to disburse funds from the trust

account in a manner that failed to produce the record required under Rule 1.15-3(b)(2) identifying the client from whose funds in the trust account the disbursement was being made, Defendant failed to disburse entrusted funds in accordance with Rule 1.15 in violation of Rule 1.15-2(a), and failed to maintain requisite records for the trust account in violation of Rule 1.15-3(b)(2);

- (d) By failing to report his misappropriation of entrusted funds to the North Carolina State Bar, Defendant failed to promptly inform the North Carolina State Bar of the misappropriation of entrusted funds in violation of Rule 1.15-2(o);
- (e) By failing to respond to the letters of notice issued to him by the State Bar in its grievance investigations, Defendant knowingly failed, in connection with disciplinary matters, to respond to lawful demands for information from a disciplinary authority in violation of Rule 8.1(b).

6. Defendant's foregoing actions also constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(3), for failure to answer the formal inquiries issued by the North Carolina State Bar in disciplinary matters.

Based on the foregoing Findings of Fact and Conclusions of Law, the Hearing Panel hereby finds by clear, cogent and convincing evidence the following additional

#### FINDINGS OF FACT REGARDING DISCIPLINE

1. The findings of fact in paragraphs 1 – 22 above are reincorporated as if set forth herein.
2. Defendant diverted funds that should have been available for clients and converted them to his own use.
3. Defendant misappropriated entrusted funds over the course of several years to satisfy personal financial needs throughout that period of time.
4. Defendant failed to participate in the profession's self-regulation, by failing to report his misappropriation to the North Carolina State Bar and failing to respond to the letters of notice concerning his handling of entrusted funds.
5. Defendant placed his own personal interests over those of his clients.
6. Defendant, by engaging in conduct involving misappropriation, misrepresentation and deceit for a substantial period of time, has shown himself to be untrustworthy.

7. The perception of the profession in the eyes of clients and the public is negatively affected by an attorney's misappropriation of entrusted funds belonging to clients.

8. Defendant has no prior record of disciplinary offenses.

9. Defendant has been licensed since 1986. With his degree of experience, Defendant should have known better than to engage in these acts that have led to the discipline imposed in this order.

10. The Hearing Panel finds by clear, cogent, and convincing evidence any additional facts that may be contained in the conclusions regarding discipline set out below.

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

#### CONCLUSIONS REGARDING DISCIPLINE

1. The Hearing Panel carefully considered all of the different forms of discipline available to it.

2. The Hearing Panel considered all of the factors enumerated in 27 N.C. Admin. Code § 1B.0114(w)(1), (2) and (3) and determined that the following factors are applicable:

27 N.C. Admin. Code § 1B.0114(w)(1)

- a. Factor (B), Intent of Defendant to commit acts where the harm or potential harm is foreseeable;
- b. Factor (C), Circumstances reflecting Defendant's lack of honesty, trustworthiness, or integrity;
- c. Factor (D), Elevation of Defendant's own interest above those of his clients;
- d. Factor (E), Negative impact of Defendant's actions on client's or public's perception of the profession;
- e. Factor (I), Acts of dishonesty, misrepresentation, deceit or fabrication;

27 N.C. Admin. Code § 1B.0114(w)(2)

- f. Factor (A), Acts of dishonesty, misrepresentation, deceit or fabrication;

- g. Factor (C), Misappropriation or conversion of assets of any kind to which Defendant or recipient was not entitled, whether from a client or any other source;
  - h. Factor (D), Commission of a felony;
- 27 N.C. Admin. Code § 1B.0114(w)(3)
- i. Factor (A), No prior record of disciplinary offenses;
  - j. Factor (C), Dishonest or selfish motive;
  - k. Factor (F), A pattern of misconduct;
  - l. Factor (G), Multiple offenses;
  - m. Factor (K), Absence of full and free disclosure to the Hearing Panel;
  - n. Factor (R), Vulnerability of the victims; and
  - o. Factor (S), Substantial degree of experience in the practice of law.

3. The factors present under 27 N.C. Admin. Code § 1B.0114(w)(1) and (2) support imposition of disbarment in this case.

4. Defendant caused significant harm to his clients by misappropriating their entrusted funds.

5. Proper maintenance and management of entrusted funds is a cornerstone of the public's trust in the legal profession. Embezzlement is one of the most serious offenses an attorney can commit, betraying the client's trust in the attorney and the public's trust in the legal profession. Defendant's misappropriation caused harm to the standing of the legal profession, undermining trust and confidence in lawyers and the legal system.

6. Defendant's repeated commission of criminal acts reflecting adversely on his honesty, trustworthiness or fitness as a lawyer caused potential significant harm to the legal profession, in that criminal conduct tends to bring the legal profession into disrepute.

7. Defendant's failure to respond to the letter of notice from the State Bar and failure to participate in this disciplinary proceeding before the DHC results in potential significant harm to the profession and to the public. The legal profession is entrusted with the privilege of self-regulation. The State Bar can only regulate the

profession if its members respond to inquiries of the State Bar and otherwise participate. Defendant's failure to respond to the State Bar and participate in this disciplinary proceeding before the DHC shows an unacceptable disregard for the regulatory authority of the State Bar. Defendant's failure to participate in the profession's self-regulation impedes effective self-regulation and jeopardizes the privilege of the profession to remain self-regulating.

8. The Hearing Panel has considered lesser alternatives and finds that suspension of Defendant's license or a public censure, reprimand, or admonition would not be sufficient discipline because of the gravity of the actual and potential harm to his clients, the public, the administration of justice, and the legal profession caused by Defendant's conduct, and the threat of potential significant harm Defendant poses to the public.

9. The Hearing Panel considered all lesser sanctions and finds that discipline short of disbarment would not adequately protect the public for the following reasons:

- a. Defendant repeatedly engaged in criminal acts reflecting adversely on his honesty, trustworthiness or fitness as a lawyer, and abused the trust placed in him by his clients. Misappropriation of entrusted funds is among the most serious misconduct in which an attorney can engage, and demonstrates the attorney is not trustworthy;
- b. Entry of an order imposing less serious discipline would fail to acknowledge the seriousness of the offenses Defendant 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
- c. The protection of the public and the legal profession requires that Defendant not be permitted to resume the practice of law until he demonstrates the following: that he has reformed; that he understands his obligations to his clients, the public, and the legal profession; and that permitting him 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 on the foregoing Findings of Fact, Conclusions of Law, and additional Findings of Fact and Conclusions of Law Regarding Discipline, the Hearing Panel hereby enters the following

#### ORDER OF DISCIPLINE

1. Defendant, R. Alfred Patrick, is hereby DISBARRED from the practice of law.

2. Defendant shall surrender his North Carolina law license and membership card to the Secretary of the North Carolina State Bar no later than 30 days following service of this order upon Defendant.

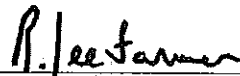
3. Defendant shall pay the fees and the costs of this proceeding as assessed by the Secretary of the North Carolina State Bar. Defendant must pay the fees and costs within 30 days of service upon him of the statement of fees and costs by the Secretary.

4. Defendant shall comply with all provisions of 27 N.C. Admin. Code § 1B.0124 of the North Carolina State Bar Discipline & Disability Rules.

5. Within 15 days of the effective date of this Order Defendant shall provide the State Bar with an address and telephone number at which clients seeking return of files can communicate with Defendant and obtain such files. This address must be a physical address at which Defendant maintains a consistent presence and receives mail. Defendant must keep this information current with the State Bar, providing updated information to the State Bar within 15 days of any change.

6. Defendant shall promptly return client files in his possession, custody, or control to clients upon request, within 5 days of receipt of such request. Defendant will be deemed to have received any such request 3 days after the date such request is sent to Defendant, if the request is sent to the address Defendant provided the State Bar pursuant to the preceding paragraph or to Defendant's address of record with the State Bar if Defendant fails to provide another address pursuant to the preceding paragraph.

Signed by the Chair with the consent of the other Hearing Panel members, this the 24~~th~~ day of October, 2016.



R. Lee Farmer, Chair  
Disciplinary Hearing Panel