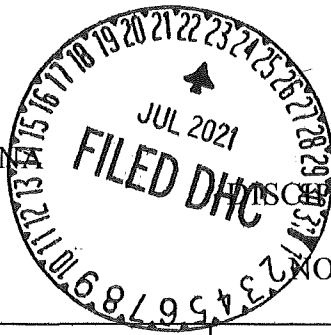


STATE OF NORTH CAROLINA  
WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
19 DHC 25

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

CABELL J. REGAN, Attorney,

Defendant

AMENDED ORDER OF DISCIPLINE

THIS MATTER was heard on 8-9 June 2021 by a hearing panel of the Disciplinary Hearing Commission composed of Margaret Hunt, Chair, and members Shannon Joseph and Tyler Morris. Joshua T. Walthall and J. Cameron Lee represented Plaintiff, the North Carolina State Bar. Defendant, Cabell J. Regan, appeared *pro se*. Defendant was properly served with process and the matter came before the Hearing Panel with due notice to all parties.

Based on the pleadings, the record in this matter, the evidence presented at the hearing, the arguments of the parties, the Hearing Panel hereby finds by clear, cogent, and convincing evidence the facts set forth below.

#### 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, Cabell Regan (“Regan” or “Defendant”), was admitted to the North Carolina State Bar in 1979, 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.

3. During the relevant period referred to herein, Defendant was actively engaged in the practice of law in Pittsboro, Chatham County, North Carolina.

4. In 2011, T.R., who has been diagnosed with alcohol addiction, retained Defendant to represent him in a criminal case in which he was charged with driving while impaired and criminal trespass.

5. During Defendant's representation of T.R., Defendant prepared and helped T.R. execute a Power of Attorney that named Defendant as T.R.'s attorney-in-fact.

6. From 2012 until the Power of Attorney was revoked in 2019, Defendant served as the attorney-in-fact for T.R.

7. Pursuant to the Power of Attorney that Defendant prepared and helped T.R. execute, Defendant had authority over T.R.'s real property, personal property, tax matters, IRS matters, insurance transactions, and gifts to others, among other things.

8. Defendant maintains that he and T.R. reached oral agreements for T.R. to pay Defendant \$500.00 per month for rent from January 2012 to February 2013 and then \$350.00 per month for Defendant's services as T.R.'s attorney-in-fact and caretaker from March 2013 to March 2019.

9. While landlord, caretaker, and attorney-in-fact for T.R., Defendant became an authorized user of T.R.'s bank accounts.

10. Defendant's use of the funds in T.R.'s account did not directly correlate to or match the monthly fee agreement that Defendant maintains explained his personal use of the funds. Rather, Defendant often used T.R.'s funds to pay for Defendant's own personal expenses. While landlord, caretaker, and attorney-in-fact for T.R., Defendant wrote himself checks or used a debit card to charge the account for his own personal expenditures.

11. While landlord, caretaker, and attorney-in-fact for T.R., Defendant regularly disbursed to himself or spent from T.R.'s account far more than the monthly fee that Defendant maintained was the reason for the expenditures, sometimes by thousands of dollars.

12. In 2012, Defendant wrote himself checks or bought personal items for himself using used at least \$8,007.69 of T.R.'s money. During 2012, if T.R. had in fact orally agreed to pay \$500.00 per month to Defendant for rent, T.R. would have thus authorized payment of \$6,000.00 to Defendant for the year,

13. Thus, Defendant embezzled at least \$2,007.69 of T.R.'s money in 2012.

14. In 2013, Defendant disbursed to himself or used for his own purposes at least \$6,237.29 of T.R.'s money. During 2013, if T.R. had in fact orally agreed to pay Defendant \$500.00 in January and February for rent and \$350.00 per month for caretaker services, T.R. would have thus authorized payment of \$4,500.00 to Defendant for the year.

15. Thus, Defendant embezzled at least \$1,737.29 of T.R.'s money in 2013.

16. In 2014, Defendant disbursed to himself or used for his own purposes at least \$6,334.15 of T.R.'s money. During 2014, if T.R. had in fact orally agreed to pay Defendant \$350

per month for caretaker services, T.R. would have thus authorized payment of \$4,200.00 to Defendant for the year.

17. Thus, Defendant embezzled at least \$2,134.15 of T.R.'s money in 2014.

18. In 2015, Defendant disbursed to himself or used for his own purposes at least \$5,832.11 of T.R.'s money. During 2015, if T.R. had in fact orally agreed to pay Defendant \$350 per month for caretaker services, T.R. would have thus authorized payment of \$4,200.00 to Defendant for the year.

19. Thus, Defendant embezzled at least \$1,632.11 of T.R.'s money in 2015.

20. In 2016, Defendant disbursed to himself or used for his own purposes at least \$5,442.12 of T.R.'s money. During 2016, if T.R. had in fact orally agreed to pay Defendant \$350 per month for caretaker services, T.R. would have thus authorized payment of \$4,200.00 to Defendant for the year.

21. Thus, Defendant embezzled at least \$1,242.12 of T.R.'s money in 2016.

22. In 2017, Defendant disbursed to himself or used for his own purposes at least \$4,671.73 of T.R.'s money. During 2017, if T.R. had in fact orally agreed to pay Defendant \$350 per month for caretaker services, T.R. would have thus authorized payment of \$4,200.00 to Defendant for the year.

23. Thus, Defendant embezzled at least \$471.73 of T.R.'s money in 2017.

24. In 2018, Defendant disbursed to himself or used for his own purposes at least \$6,789.71 of T.R.'s money. During 2018, if T.R. had in fact orally agreed to pay Defendant \$350 per month for caretaker services, T.R. would have thus authorized payment of \$4,200.00 to Defendant for the year.

25. Thus, Defendant embezzled at least \$2,589.71 of T.R.'s money in 2018.

26. While attorney-in-fact for T.R., Defendant routinely facilitated T.R.'s alcohol consumption by providing T.R. with alcohol and taking T.R. to liquor stores, despite at one point referring to T.R. as a "dead man walking" due to T.R.'s alcoholism.

27. While attorney-in-fact for T.R., Defendant arranged for himself to become the beneficiary, and later the owner, of a life insurance policy for T.R. with a death benefit in the amount of \$100,000.00.

28. By making himself the owner of T.R.'s life insurance policy, it became impossible for T.R. to change the policy's beneficiary.

29. Despite being the sole beneficiary and, as of at least July of 2013, the sole owner of the life insurance policy for T.R., Defendant used T.R.'s money to pay for the monthly premiums in the amount of \$86.13 per month from July 2013 to January 2019: \$1,033.56 per 12 month period.

30. The annual embezzlement amounts described in paragraphs 13, 15, 17, 19, 21, 23, and 25 do not include the life insurance policy premium payments made from July 2013 to January 2019. Adding the life insurance premium expenditures, Defendant's total amount of embezzlement from T.R. each year is:

- a. 2013: \$2,254.07;
- b. 2014: \$3,167.71;
- c. 2015: \$2,665.67;
- d. 2016: \$2,275.68;
- e. 2017: \$1,505.29; and
- f. 2018: \$3,623.27.

31. Between the time of Defendant's initial representation of T.R. and the revocation of the Power of Attorney, Defendant caused two cars belonging to T.R. to be signed over to Defendant and Defendant's wife without payment.

32. T.R.'s primary care provider has indicated that T.R. lacks full capacity to manage his health and financial needs.

33. The Chatham County Department of Social Services investigated Defendant's possible exploitation of T.R. after concerns were expressed to it that Defendant was taking advantage of T.R. financially during the period he served as T.R.'s attorney-in-fact. The Chatham County Department of Social Services concluded, *inter alia*, that Defendant had exploited the person and the assets of T.R.

34. Defendant's Power of Attorney was revoked in March 2019 and a new Power of Attorney was executed, naming a new attorney-in-fact for T.R.

35. Notwithstanding the revocation of the Power of Attorney, Defendant continued to see T.R. and to supply T.R. with alcohol.

36. On 22 May 2019, Durham County District Court found that Defendant had stalked and harassed T.R. after the Power of Attorney was revoked. The Court entered a no-contact order which prohibited Defendant from any further contact with T.R.

37. Pursuant to N.C. Gen. Stat. § 14-277.3A, it is criminal conduct to stalk or harass someone.

38. On 28 June 2019, the State Bar filed a motion for a temporary restraining order and petition for preliminary injunction against Defendant.

39. A hearing for a preliminary injunction was set and heard in Wake County Superior Court on 12 July 2019.

40. Defendant appeared at the 12 July 2019 hearing and opposed the State Bar's petition.

41. The Court found that a "need for prompt action exists to ensure that additional funds are not mishandled, and that Regan does not further exploit any other individuals while serving in a fiduciary capacity."

42. The Court further found that if "Regan is not temporarily restrained, irreparable injury could result."

43. On 6 August 2019, the Wake County Superior Court entered an order enjoining Defendant from serving as a fiduciary.

44. Pursuant to N.C. Gen. Stat. § 32C-1-114, Defendant owed a fiduciary duty to T.R. to act in good faith and in T.R.'s best interest when serving as T.R.'s attorney-in-fact.

45. Defendant breached his fiduciary duty as attorney-in-fact for T.R. and did not act in T.R.'s best interests.

46. T.R. is not an attorney and Defendant is an attorney, and Defendant served as T.R.'s caretaker and attorney-in-fact. Defendant was the superior party in his fiduciary relationship with T.R.

47. By using T.R.'s money for his own purposes, Defendant obtained a benefit from his fiduciary relationship with T.R.

48. Defendant was not entitled to use T.R.'s money for his own purposes or to pay himself if not properly authorized by T.R. Defendant's payments to himself and use of T.R.'s money exceeded the amount that Defendant argued was authorized by T.R.

49. Accordingly, whether T.R. had in fact orally authorized payment for rent and caretaker services, Defendant embezzled funds and knowingly and willfully misapplied and converted T.R.'s funds for his own use.

50. Pursuant to N.C. Gen. Stat. § 14-90, it is felonious criminal conduct to embezzle or knowingly and willfully misapply or convert someone else's funds to one's own use.

51. On 1 April 2019, Defendant was served with a letter of notice inquiring about his conduct in T.R.'s case.

52. In response to the State Bar's letter of notice, Defendant represented that, on average, he disbursed to himself or spent for his own benefit less than \$350.00 per month from T.R.'s bank account.

53. Defendant's representation to the State Bar that, on average, he disbursed to himself to himself or spent for his own benefit less than \$350.00 per month from T.R.'s bank account was false.

54. From at least June 2013 through July 2019, Defendant maintained an attorney trust account at First Tennessee Bank (f/k/a Capital Bank), account number ending in digits 3306 ("the trust account" or "Defendant's trust account").

55. Defendant failed to conduct the reconciliations required by Rule 1.15-3(d) of the Rules of Professional Conduct as follows:

- a. Defendant failed to maintain a general ledger for his trust account and accordingly has no reconciliation done on a quarterly basis in which his general ledger balance is compared with the total of positive subsidiary ledger balances and the adjusted bank balance; and
- b. Defendant failed to utilize the accurate bank statement balance, creating reconciliation reports that misrepresented that the trust account bank statement balance and total of positive subsidiary trust account ledgers were consistent with each other when in fact they were not, as follows:
  - i. For January 2016, Defendant lists his trust account bank balance as \$73.32, while the actual balance, according to the bank records, was \$1,043.32. This reconciliation report misrepresented that the bank balance and total of subsidiary trust account ledgers were both \$73.32;
  - ii. For February 2016 Defendant lists his trust account bank balance as \$1,043.32 while the actual balance, according to the bank records, was \$43.32. This reconciliation report misrepresented that the bank balance and the total of subsidiary trust account ledgers were both \$1,043.32; and
  - iii. For November 2018 Defendant lists his trust account bank balance as \$439.16 while the actual balance, according to the bank records, was \$639.16. This reconciliation report misrepresented that both the bank balance and the total of subsidiary trust account ledgers were \$439.16.

56. Defendant also wrote, signed, and negotiated numerous checks from his trust account without indicating the client from whose funds the money was drawn on the face of the check, in violation of Rule 1.15-3(b)(2) of the Rules of Professional Conduct:

- a. On 12 August 2013, Defendant wrote check #1006 to himself for \$500.00, without indicating anywhere on the check the client from whose funds the money was drawn;
- b. On 6 May 2014, Defendant wrote check #1019 to the Register of Deeds for \$222.00 without indicating anywhere on the check the client from whose funds the money was drawn;
- c. On 6 May 2014, Defendant wrote check #1020 to himself for \$150.00 without indicating anywhere on the check the client from whose funds the money was drawn;
- d. On 23 February 2015, Defendant wrote check #1046 to "Coldwell Banker HPW" for \$2,400.00 without indicating anywhere on the check the client from whose funds the money was drawn;
- e. On 23 February 2015, Defendant wrote check #1051 to himself for \$600.00 without indicating anywhere on the check the client from whose funds the money was drawn;
- f. On 23 February 2015, Defendant wrote check #1052 to "Market Title Company, LLC" for \$157.50 without indicating anywhere on the check the client from whose funds the money was drawn;
- g. On 23 February 2015, Defendant wrote check #1055 to "Coldwell Banker HPW" for \$249.00 without indicating anywhere on the check the client from whose funds the money was drawn;
- h. On 2 January 2019, Defendant wrote check #1204 to the Clerk of Court for \$463.00 without indicating anywhere on the check the client from whose funds the money was drawn; and
- i. On 27 June 2019, Defendant wrote check #1220 to himself for \$220.16 without indicating anywhere on the check the client from whose funds the money was drawn.

57. Defendant also wrote, signed, and negotiated numerous checks from his trust account to his wife rather than to himself, in violation of Rule 1.15-2(h) of the Rules of Professional Conduct:

- a. On 5 January 2017, Defendant wrote check #1110 to his wife for \$464.51;
- b. On 8 February 2017, Defendant wrote check #1112 to his wife for \$154.84;
- c. On 27 February 2017, Defendant wrote check #1114 to his wife for \$154.84;
- d. On 5 May 2017, Defendant wrote check #1116 to his wife for \$309.68;
- e. On 21 May 2017, Defendant wrote check #1128 to his wife for \$153.84; and

f. On 7 October 2017, Defendant wrote check #1148 to his wife for \$154.84.

58. During this time period of June 2013 through July 2019, Defendant also misappropriated entrusted funds held in his trust account from clients D.C., H.M., and J.M.

59. In December of 2015, Defendant undertook representation of client D.C., making an initial deposit into Defendant's trust account on 28 December 2015 for the benefit of client D.C.

60. From December of 2015 to February of 2018, Defendant made various deposits and withdrawals from his trust account for the benefit of client D.C.

61. On 15 February 2018, the funds remaining in Defendant's trust account for client D.C. totaled \$71.60.

62. On 15 February 2018, Defendant paid himself \$100.00 designated as being paid out of the client funds of D.C. by issuing, signing, and negotiating check number 1165, in the amount of \$100.00, from his trust account and writing D.C.'s last name on the memo line of the check.

63. Because there was only a \$71.60 balance in the trust account for client D.C. at the time check number 1165 was negotiated, Defendant's negotiation of check number 1165 for \$100.00 utilized \$28.40 of other clients' funds from Defendant's trust account.

64. Thus, on 15 February 2018, Defendant misappropriated \$28.40 of entrusted funds belonging to other clients when he disbursed \$28.40 more to himself than was then attributed in his trust account to client D.C.

65. Defendant did not report this misappropriation to the Trust Account Compliance Counsel in the North Carolina State Bar Office of Counsel.

66. In August of 2013, Defendant undertook representation of client H.M., making an initial deposit into Defendant's trust account on 19 August 2013 for the benefit of client H.M.

67. From August of 2013 to September of 2018, Defendant made various deposits and withdrawals from his trust account for the benefit of client H.M.

68. On 19 September 2018, the funds remaining in Defendant's trust account for client H.M. totaled \$9,452.14.

69. Nonetheless, on 19 September 2018, Defendant paid himself \$10,000.00 designated as being paid out of the client funds of H.M. by issuing, signing, and negotiating check number 1193, in the amount of \$10,000.00, from his trust account and writing, *inter alia*, "H.[.]M.[.]" on the memo line of the check.

70. Since there was only a \$9,452.14 balance in the trust account for client H.M. at the time check number 1193 was negotiated, Defendant's negotiation of check number 1193 for \$10,000.00 utilized \$547.86 of other clients' funds from Defendant's trust account.

71. Thus, on 19 September 2018, Defendant misappropriated \$547.86 of entrusted funds belonging to other clients when he disbursed \$547.86 more to himself than was then attributed in his trust account to client H.M.

72. Defendant did not report this misappropriation to the Trust Account Compliance Counsel in the North Carolina State Bar Office of Counsel.

73. On 29 November 2018 Defendant made a \$200.00 deposit attributed to H.M. into the trust account; however, this did not suffice to correct the prior over-disbursement and, rather, only served to bring the total deficiency to \$347.86.

74. On 12 December 2018, despite not having any funds in his trust account for H.M., and, in fact, having a negative balance of \$347.86 in his trust account for client H.M., Defendant issued check number 1201 to the Register of Deeds for \$72.00 out of his trust account for the benefit of client H.M., increasing the total of funds Defendant had disbursed from the trust account for the benefit of H.M. in excess of funds in the trust account for H.M. to \$419.86.

75. Thus, on 12 December 2018, Defendant misappropriated \$72.00 of entrusted funds belonging to other clients when he disbursed \$72.00 to the Register of Deeds for client H.M. when no funds were in Defendant's trust account for the benefit of H.M.

76. Defendant did not report this misappropriation to the Trust Account Compliance Counsel in the North Carolina State Bar Office of Counsel.

77. In August of 2015, Defendant undertook representation of client J.M., making an initial deposit into Defendant's trust account on 24 August 2015 for the benefit of client J.M.

78. From August of 2015 to July of 2019, Defendant made various deposits and withdrawals from his trust account for the benefit of client J.M.

79. On 18 October 2016, the funds remaining in Defendant's trust account for client J.M. totaled \$12.04.

80. Nonetheless, on 18 October 2016, Defendant issued check number 1095 to Courtesy Towing for \$300.00 designated as being paid out of his trust account for the benefit of client J.M., which was \$287.96 in excess of funds held for J.M. in his trust account and was also in excess of the total amount of funds in Defendant's trust account at that time.

81. Beginning on 19 October 2016, Defendant made a series of deposits into his trust account for the benefit of J.M., in an apparent effort to correct the negative balance.

82. A few months later, on 6 July 2018, there were no funds remaining in Defendant's trust account for client J.M.

83. Nonetheless, on 6 July 2018, Defendant paid himself \$154.84 out of the client funds of J.M. by issuing, signing, and negotiating check number 1186, in the amount of \$154.84, from his trust account and writing, *inter alia*, "M[.]" on the memo line of the check.

84. Since there were no funds remaining in the trust account for client J.M. at the time check number 1186 was negotiated, Defendant's negotiation of check number 1186 for \$154.84 utilized \$154.84 of other clients' funds from Defendant's trust account.

85. Thus, on 6 July 2018 Defendant misappropriated \$154.84 of entrusted funds belonging to other clients when he disbursed \$154.84 more to himself than was then attributed in his trust account to client J.M.

86. Defendant did not report this misappropriation to the Trust Account Compliance Counsel in the North Carolina State Bar Office of Counsel.

Based upon the foregoing Findings of Fact, the Hearing Panel enters the following:

#### CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Panel, and the Hearing Panel has jurisdiction over the Defendant, Cabell J. Regan, and the subject matter.

2. Defendant'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) in that Defendant violated the Rules of Professional Conduct as follows:

- a) By collecting more than the amount that Defendant claimed that T.R. authorized for payment of services, Defendant charged an illegal or excessive fee in violation of Rule 1.5(a);
- b) By claiming to T.R. that he would only collect \$500.00 and then \$350.00 per month from T.R.'s funds and then collecting more than that amount, Defendant made misstatements about his fees and services in violation of Rule 7.1(a) and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c);
- c) By arranging to have T.R.'s vehicles transferred to himself and his wife without payment and arranging to become the owner and beneficiary of T.R.'s life insurance policy, Defendant entered into a business transaction with a client and/or knowingly acquired a pecuniary interest directly adverse to a client in violation of Rule 1.8(a);

- d) By collecting more than the allegedly agreed upon fee from T.R.'s funds each month and by arranging to have T.R.'s vehicles transferred to himself and his wife without payment and arranging to become the owner and beneficiary of T.R.'s life insurance policy, Defendant engaged in a conflict of interest in violation of Rule 1.7(a);
- e) By stalking and harassing T.R. after his Power of Attorney was revoked, Defendant committed a criminal act that reflects adversely on his fitness as a lawyer in violation of Rule 8.4(b);
- f) By breaching his fiduciary duty and exploiting the assets of T.R. and using T.R.'s money for his own benefit, Defendant misused entrusted funds in violation of Rules 1.15-2(a) and (k); engaged in embezzlement, which is, pursuant to N.C. Gen. Stat. § 14-90, a criminal act reflecting adversely on Defendant's fitness as a lawyer in violation of Rule 8.4(b); and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation, in violation of Rule 8.4(c);
- g) By falsely claiming to the State Bar that, on average, he disbursed to himself or spent for his own benefit less than \$350.00 per month from T.R.'s bank account, Defendant knowingly made a false statement of material fact in a disciplinary matter in violation of Rule 8.1(a) and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation, in violation of Rule 8.4(c);
- h) By taking advantage of T.R. through his position as attorney-in-fact such that the Power of Attorney had to be revoked and a new Power of Attorney executed and recorded, Defendant engaged in conduct that is prejudicial to the administration of justice in violation of Rule 8.4(d);
- i) By writing, signing, and negotiating numerous checks from his trust account without indicating the client from whose funds the money was drawn on the face of the check, Defendant violated Rule 1.15-3(b)(2);
- j) By writing, signing, and negotiating numerous checks from his trust account to his wife rather than to himself, Defendant violated Rule 1.15-2(h);
- k) By misappropriating \$28.40 of client funds by trust account check number 1165 on 15 February 2018, Defendant committed a criminal act that reflects adversely on his honesty, trustworthiness, or fitness in other respects in violation of Rule 8.4(b); engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c); and failed to properly maintain and disburse entrusted funds and improperly disbursed entrusted funds for his benefit in violation of Rules 1.15-2(a) and (k);
- l) By failing to maintain sufficient funds in his trust account for client D.C., Defendant failed to properly maintain entrusted funds in violation of Rule 1.15-2(a);

- m) By failing to report his misappropriation of client D.C.'s funds to the Trust Account Compliance Counsel in the North Carolina State Bar Office of Counsel, Defendant violated Rule 1.15-2(p);
- n) By misappropriating \$547.86 of client funds by trust account check number 1193 on 19 September 2018, Defendant committed a criminal act that reflects adversely on his honesty, trustworthiness, or fitness in other respects in violation of Rule 8.4(b); engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c); and failed to properly maintain and disburse entrusted funds and improperly disbursed entrusted funds for his benefit in violation of Rules 1.15-2(a) and (k);
- o) By misappropriating \$72.00 of client funds by trust account check number 1201 on 12 December 2018, Defendant committed a criminal act that reflects adversely on his honesty, trustworthiness, or fitness in other respects in violation of Rule 8.4(b); engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c); and failed to properly maintain and disburse entrusted funds and improperly disbursed entrusted funds in violation of Rules 1.15-2(a) and (k);
- p) By failing to maintain sufficient funds in his trust account for client H.M., Defendant failed to properly maintain entrusted funds in violation of Rule 1.15-2(a);
- q) By failing to report his misappropriation of client funds to make disbursements purportedly for the benefit of client H.M. to the Trust Account Compliance Counsel in the North Carolina State Bar Office of Counsel, Defendant violated Rule 1.15-2(p);
- r) By misappropriating \$287.96 of client funds by trust account check number 1095 on 18 October 2016, Defendant committed a criminal act that reflects adversely on his honesty, trustworthiness, or fitness in other respects in violation of Rule 8.4(b); engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c); and failed to properly maintain and disburse entrusted funds and improperly disbursed entrusted funds for his benefit in violation of Rules 1.15-2(a) and (k);
- s) By misappropriating \$154.84 of client funds by trust account check number 1186 on 6 July 2018, Defendant committed a criminal act that reflects adversely on his honesty, trustworthiness, or fitness in other respects in violation of Rule 8.4(b); engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c); and failed to properly maintain and disburse entrusted funds and improperly disbursed entrusted funds for his benefit in violation of Rules 1.15-2(a) and (k);
- t) By failing to maintain sufficient funds in his trust account for client J.M., Defendant failed to properly maintain entrusted funds in violation of Rule 1.15-2(a);

- u) By failing to report his misappropriation of client funds to make disbursements purportedly for the benefit of client J.M. to the Trust Account Compliance Counsel in the North Carolina State Bar Office of Counsel, Defendant violated Rule 1.15-2(p); and
- v) By failing to maintain all records needed to conduct the reconciliation required by Rule 1.15-3(d)(1) and by failing to utilize the accurate bank balance in certain reconciliation reports, Defendant failed to conduct the requisite quarterly reconciliations in violation of Rule 1.15-3(d)(1).

3. Pursuant to N.C. Gen. Stat. § 84-28(b)(3) in that Defendant made knowing misrepresentations of facts or circumstances surrounding any complaint, allegation or charge of misconduct to the State Bar.

Based upon the foregoing Findings of Fact and Conclusions of Law, and the record in this case, the Hearing Panel finds by clear, cogent, and convincing evidence the following:

#### ADDITIONAL FINDINGS REGARDING DISCIPLINE

1. The findings of fact in paragraphs 1 through 86 above are reincorporated as if set forth herein.
2. Defendant was reprimanded by the Disciplinary Hearing Commission in 1989 for engaging in an improper business transaction with a client that inured to Defendant's benefit; Defendant received a stayed suspension from the Disciplinary Hearing Commission in 2011 for, *inter alia*, unlawfully and willfully failing to timely file state income tax returns, and numerous violations of the State Bar's trust accounting rules.
3. As indicated in paragraph (f) in the Conclusions of Law above, Defendant committed the crime of embezzlement. The crime of embezzlement is a class H felony in North Carolina.
4. Defendant's course of misconduct set forth in this order began in late 2011 and continued through March 2019. During that period, Defendant not only engaged in a pattern of repeated similar acts of misconduct—many of which involved dishonesty, misrepresentation, deceit, or fabrication—but also engaged in a wide variety of Rule violations.
5. T.R. was exceptionally vulnerable to the type of exploitation perpetrated by Defendant. T.R. was a known alcoholic who Defendant himself acknowledged was readily susceptible to manipulation. Rather than protect T.R., Defendant capitalized on T.R.'s alcoholism for Defendant's own gain.

6. By embezzling T.R.'s funds, Defendant financially exploited T.R., foreseeably causing significant harm to T.R., and acted for his own financial benefit to the detriment of T.R.'s interests.

7. People to whom a lawyer owes fiduciary obligations are entitled to and expect attorneys to be trustworthy. Fundamental to this trust is the expectation that an attorney will properly protect and maintain entrusted funds; a lawyer's failure to do so erodes the confidence clients place in attorneys who handle their affairs and harms the profession.

8. Defendant foreseeably caused potential significant harm to T.R., D.C., H.M., J.M., and other clients by failing to properly protect and maintain funds Defendant held in trust for their benefit.

9. Defendant's conduct caused significant harm to the profession by reinforcing the negative stereotype that lawyers are greedy, selfish, and dishonest, and by diminishing the public's expectation that attorneys can be trusted to protect vulnerable clients.

10. Our system of justice depends on lawyers being honest and forthright with the tribunal. Defendant repeatedly misrepresented to various tribunals before whom he appeared in proceedings related to this matter the extent of his expenditure of T.R.'s funds—asserting that he never spent more than \$350.00 of T.R.'s money per month for his own benefit when, in fact, over the course of his service as T.R.'s attorney-in-fact, Defendant paid himself or spent on his own behalf thousands of dollars in excess of what he himself said he was entitled to. Additionally, in a filing with the Hearing Panel in this case, Defendant misrepresented the actions of the State Bar during discovery and during the parties' prehearing conference.

11. As officers of the court, attorneys must avoid conduct that undermines the integrity of the adjudicative process. When an attorney makes false statements to the court, it foreseeably causes significant harm to the profession and the administration of justice by eroding judges' and lawyers' ability to rely on another attorneys' word.

12. There is no indication that Defendant has taken ownership of his misconduct or its consequences. With a few minor exceptions, Defendant has not acknowledged violating the Rules of Professional Conduct. With a few minor exceptions, Defendant has not expressed remorse or shown any insight regarding the ways in which he betrayed T.R.'s trust.

13. Defendant has made no restitution of any of the money he embezzled from T.R.

14. As noted in paragraph 14 above, Defendant made misrepresentations to the State Bar during the grievance process, to the Wake County Superior Court during a hearing on the State Bar's Motion for TRO and Preliminary Injunction, and in filings with this Hearing Panel, actively undermining the ability of the legal profession to self-regulate and causing harm to the profession and its ability to remain self-regulating. By engaging in this deception, Defendant failed to participate in good faith in the self-regulatory process.

15. Defendant's friend, Greg Hood, believes that Defendant is a person of honesty, integrity, and good character.

16. Defendant has over 40 years' experience in the practice of law.

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

#### CONCLUSIONS REGARDING DISCIPLINE

1. The Hearing Panel has carefully considered all of the different forms of discipline available to it. In addition, the Hearing Panel has considered all of the factors enumerated in 27 N.C.A.C. 1B § .0114(w)(1) of the Rules and Regulations of the North Carolina State Bar and concludes that the following factors are present:

- (a) Factor (B), Intent of the Defendant to commit acts where the harm or potential harm is foreseeable;
- (b) Factor (C), Circumstances reflecting the Defendant's lack of honesty, trustworthiness, or integrity;
- (c) Factor (D), Elevation of Defendant's own interests above those of the clients;
- (d) Factor (E), Negative impact of Defendant's actions on the client's or the public's perception of the legal profession;
- (e) Factor (F), Negative impact of Defendant's actions on the administration of justice;
- (f) Factor (H), Effect of Defendant's conduct on third parties;
- (g) Factor (I), Acts of dishonesty, misrepresentation, deceit or fabrication; and
- (h) Factor (J), Multiple instances of Defendant's 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) of the Rules and Regulations of the North Carolina State Bar and concludes that the following factors are present:

- (a) Factor (A), Acts of dishonesty, misrepresentation, deceit or fabrication;
- (b) Factor (B), Impulsive acts of dishonesty, misrepresentation, deceit or fabrication without timely remedial efforts;

- (c) Factor (C), Misappropriation or conversion of assets of any kind to which Defendant or recipient is not entitled, whether from a client or other source; and
- (d) Factor (D), Commission of a felony.

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

- (a) Factor (A), Prior disciplinary offenses in North Carolina;
- (b) Factor (C), Dishonest or selfish motive;
- (c) Factor (E), Indifference to making restitution;
- (d) Factor (F), Pattern of misconduct;
- (e) Factor (G), Multiple offenses;
- (f) Factor (N), Submission of false evidence, false statements, or other deceptive practices during the disciplinary process;
- (g) Factor (O), Refusal to acknowledge the wrongful nature of the conduct;
- (h) Factor (Q), Defendant's character or reputation;
- (i) Factor (R), Vulnerability of the victim; and
- (j) Factor (S), Degree of experience in the practice of law.

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

5. The Hearing Panel has considered all lesser sanctions and finds that discipline short of disbarment would not adequately protect the public, the profession, and the administration of justice for the following reasons:

- (a) The factors under Rule .0114(w)(2) that are established by the evidence in this case are of a nature that support imposition of disbarment as the appropriate discipline;
- (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 to the public regarding the conduct expected of members of the Bar of this state; and

- (c) Protection of the public requires that Defendant not be permitted to resume the practice of law unless and until he demonstrates that he has reformed, and that he understands his obligations as an attorney and an officer of the court. Disbarment is the only sanction that requires Defendant to demonstrate reformation before he may resume the practice of law.

Based upon the foregoing facts, findings and conclusions, the Hearing Panel hereby enters the following:

ORDER OF DISCIPLINE

1. Defendant, Cabell J. Regan, is hereby DISBARRED, effective thirty days from the date this Order of Discipline is served on him.
2. Defendant shall surrender his law license and membership card to the Secretary of the North Carolina State Bar no later than thirty days following service of this Order upon Defendant.
3. Defendant shall pay the administrative fees and costs of this proceeding within thirty days of service of the statement of costs upon him by the Secretary of the State Bar.
4. Defendant shall comply with all provisions of 27 N.C.A.C. 1B §.0128. As provided in 1B §.0128(d), Defendant shall file an affidavit with the Secretary of the North Carolina State Bar within ten days of the effective date of this order, certifying his compliance with the rule.

Signed by the Chair with the consent of the other Hearing Panel members, this the 23 day of July, 2021.

  
Margaret M. Hunt, Chair  
Disciplinary Hearing Panel