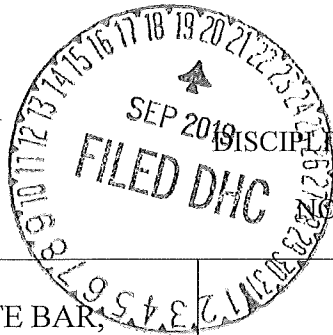


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
18 DHC 46

THE NORTH CAROLINA STATE BAR,
Plaintiff

v.

ERICA MARIE ERICKSON, Attorney,
Defendant

ORDER OF DISCIPLINE

This matter was heard on 21 and 22 August 2019 before a hearing panel of the Disciplinary Hearing Commission composed of David W. Long, Chair, Shannon R. Joseph, and Jane B. Weathers pursuant to 27 N.C. Admin. Code 1B.0116 of the Rules and Regulations of the North Carolina State Bar. Maria J. Brown and Carmen Hoyme Bannon represented Plaintiff, the North Carolina State Bar. Dudley A. Witt and David B. Freedman represented Defendant, Erica Marie Erickson. 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 argument of the parties, and upon making credibility determinations regarding testimony presented, the Hearing Panel hereby makes by clear, cogent, and convincing evidence the following:

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar ("Plaintiff" or "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 promulgated thereunder.

2. Defendant, Erica Marie Erickson ("Defendant" or "Erickson"), was admitted to the North Carolina State Bar in May 2015 and is an attorney at law subject to the rules, regulations, and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. During the relevant period referred to herein, Defendant was actively engaged in the practice of law in Brevard, Transylvania County, and Hendersonville, Henderson County, North Carolina.

The Browne Matter

4. In 2016, Defendant represented T.B. as the administrator of the estate of David Browne, T.B.'s late husband, in a special proceeding to sell real property to pay estate debts, Transylvania County file number 16 SP 70.

5. On 16 August 2016, Defendant filed with the Clerk a Petition to Sell Land to Create Assets.

6. On 7 October 2016, Defendant filed with the Clerk a revised Petition to Sell Land to Create Assets ("revised Petition") and a Consent Judgment to Sell Land to Create Assets ("Consent Judgment").

7. The revised Petition indicated on its face that all three of the heirs to the Browne estate consented to the Petition.

8. Both the revised Petition and Consent Judgment purported to be signed by each heir to the estate, including David Browne, Jr.

9. David Browne, Jr. did not sign the revised Petition or Consent Judgment.

10. On or about 20 September 2016, Defendant notarized signatures purporting to be those of David Browne, Jr., on the revised Petition and Consent Judgment, certifying that David Browne, Jr., had appeared before her, was personally known to her, and had sworn or affirmed that he consented knowingly and voluntarily to the relief sought by the revised Petition.

11. David Browne, Jr., did not appear before Defendant to sign the revised Petition or Consent Judgment.

12. Defendant's certifications were false.

13. At the time she completed the notarial certificates on the revised Petition and Consent Judgment, she knew that the verifications she purported to take of the signature of David Browne, Jr., on those documents were false.

14. When Defendant signed the Consent Judgment and presented the revised Petition and Consent Judgment to the Clerk, she knew David Browne, Jr., had not consented to the relief sought therein.

15. Without the consent of David Browne, Jr., to the revised Petition and Consent Judgment, the Clerk did not have authority to order the sale of the land on 7 October 2016.

16. Defendant knew there was not a legitimate basis to ask the Clerk for the relief sought in the revised Petition and Consent Judgment.

17. Defendant made the representations in the revised Petition and Consent Judgment with the intention of misleading the Clerk.

18. Defendant presented the revised Petition and Consent Judgment to the Clerk with knowledge that they were frivolous and without basis in law and fact.

19. Defendant presented the revised Petition and Consent Judgment to the Clerk with knowledge that they contained factual misrepresentations.

20. Defendant made the representations in the revised Petition and Consent Judgment for the purpose of inducing the Clerk to enter a judgment to which the estate was not entitled.

21. It is a criminal act for a notary to take an acknowledgement or a verification or a proof or administer an oath or affirmation if the notary knows it is false or fraudulent.

The Regier Matter

22. In 2016, Defendant represented C.R. in the preparation of an estate plan.

23. Implementation of C.R.'s estate plan required transfer of title to real property which C.R. held jointly with her husband, L.R.

24. In or around November 2016, Attorney C. Page Collie prepared two deeds related to the estate plan for execution by both C.R. and L.R.

25. C.R. and L.R. executed the deeds outside Defendant's presence.

26. Neither C.R. nor L.R. appeared before Defendant to acknowledge their execution of the deeds.

27. On or about 30 November 2016, Defendant notarized the signatures of C.R. and L.R. on both deeds, falsely certifying that they had both appeared before her and acknowledged their execution of the deeds.

28. At the time Defendant completed the notarial certificates on the deeds, she knew that the acknowledgements she purported to take on the deeds were false.

29. On or about 14 August 2017, the deeds were recorded with the Transylvania County Register of Deeds in book 814, pages 490–495.

30. On 21 March 2019, in *State v. Erica Marie Erickson*, Transylvania District Court file number 18 CR 114, Defendant pled guilty to two counts of the Class 1 misdemeanor offense of performing a notarial act without the principal appearing in violation of N.C. Gen. Stat. § 10B-60(c)(1) for her conduct with regard to C.R. and L.R.

The Harkness Matter

31. K.H., an elderly woman, had granted a Power of Attorney to her son J.J., and J.J. had served as attorney-in-fact for K.H. for some time.

32. On or about 2 December 2016, K.H. revoked the Power of Attorney she had given to J.J.

33. K.H. revoked the Power of Attorney she had granted to J.J. because of her concern that J.J. was stealing her money.

34. By letter dated 2 December 2016, J.J. was informed of the revocation, asked to provide financial accountings, and told that his failure to provide the accountings would result in court action.

35. On or about 9 December 2016, Defendant began representing J.J. with regard to K.H.

36. Defendant learned during her meeting with J.J. on 9 December 2016 that J.J. had been accused of financial abuse with regard to K.H. and that K.H. had signed a revocation of J.J.'s power of attorney.

37. Defendant and J.J. went to K.H.'s home on 10 December 2016.

38. Defendant accompanied J.J. to K.H.'s home in her capacity as J.J.'s attorney.

39. Defendant did not identify herself to K.H. as an attorney.

40. Defendant did not tell K.H. that she represented J.J.

41. Defendant knew or reasonably should have known that K.H.'s interests were or had a reasonable possibility of being in conflict with those of J.J., her client.

42. Defendant asked K.H. if she could sit in on the meeting between K.H. and J.J. to see if she may be able to help with the situation.

43. Defendant advised K.H. that she should reinstate J.J. as attorney-in-fact.

44. J.J. recorded a portion of the visit with K.H.

45. On 12 December 2016, K.H.'s attorney directed J.J. to preserve the original recording of the conversation with K.H. and to provide a copy of the recording to him.

46. The recording was not preserved.

The Hombordy Matter

47. On or about 30 January 2017, Defendant began representing J.S. and A.H. with regard to their elderly father, E.H.

48. J.S. and A.H. wanted Defendant's help in acquiring authority to manage their father's affairs, either as his attorneys-in-fact or through an incompetency proceeding, and to compel him to move to Ohio if he would not go willingly.

49. Defendant met J.S. and A.H. at their father's home on or about 2 February 2017 and accompanied them as they met with E.H.

50. J.S. and A.H. asked E.H. to sign a new power of attorney and health care power of attorney naming one or both of them as attorney-in-fact.

51. E.H. declined and said he already had a power of attorney.
52. At that point, Defendant knew or reasonably should have known that E.H.'s interest was in conflict with the interests of her clients with respect to E.H.
53. J.S. and A.H. asked E.H. to agree to move to Ohio.
54. E.H. told them he wanted to remain in North Carolina.
55. After E.H. declined to name J.S. and/or A.H. as his attorney(s)-in-fact and rejected their offer to move to Ohio, J.S. and A.H. told E.H. they would report his caretaker to DSS and the police for elder exploitation.
56. In response, E.H. said he would sign a power of attorney to protect his caretaker from J.S. and A.H.'s threat to report her to law enforcement.
57. Defendant knew E.H. did not want a new power of attorney.
58. Defendant did not believe E.H. then possessed the capacity to execute a new power of attorney.
59. E.H. believed that signing the power of attorney would protect his caretaker, and he signed the power of attorney in order to protect his caretaker from J.S. and A.H.'s threat to report her.
60. Defendant was aware that E.H. believed his signing of a power of attorney would protect his caretaker.
61. Defendant had brought various documents with her to E.H.'s home, including copies of the statutory power of attorney and health care power of attorney forms.
62. With full awareness of the facts described at paragraphs 50-60, Defendant presented the form power of attorney documents to E.H. for execution.
63. Certain material terms on the power of attorney forms Defendant presented to E.H.—including the name of the principal, the name(s) of the agent(s), and designation of area(s) of authority—were left blank.
64. E.H. executed the form powers of attorney.
65. E.H.'s signatures on the form powers of attorney were not witnessed or notarized.
66. Defendant did not give E.H. copies of any of the forms he signed.
67. After he signed the power of attorney forms, E.H. asked Defendant about the validity of the forms he had signed.
68. Defendant advised E.H. that the forms were not valid.

69. E.H. asked Defendant about the forms because he was concerned about having signed them and thought Defendant was an appropriate person to advise him about the documents' validity.

70. Defendant knew or reasonably should have known that E.H. misunderstood her role in the matter.

71. Defendant did not correct E.H.'s misunderstanding about her role.

72. When she left E.H.'s home, Defendant took with her the form power of attorney documents E.H. had signed.

73. The following day, 3 February 2017, Defendant filed an incompetency and guardianship petition against E.H. on behalf of her clients.

74. Defendant thereafter returned with J.S. and A.H. to the home of E.H.

75. E.H. immediately asked Defendant again about the power of attorney forms he had signed.

76. Defendant again advised E.H. that the power of attorney forms were not valid.

77. Defendant also told E.H. that she had shredded the power of attorney forms that morning.

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 panel has jurisdiction over Defendant, Erica Marie Erickson, and over the subject matter.

2. Erickson'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 making false notary certifications on the revised Petition and Consent Judgment, Defendant committed criminal acts that reflect adversely on her honesty, trustworthiness or 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);
- (b) By knowingly making false statements to the court in the revised Petition and Consent Judgment and knowingly filing the revised Petition and Consent Judgment which bore false verifications, Defendant asserted an issue in a proceeding without a non-frivolous basis in law or fact in violation of Rule 3.1, knowingly made false

statements of material fact to a tribunal in violation of Rule 3.3(a)(1), and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c) and that was prejudicial to the administration of justice in violation of Rule 8.4(d);

- (c) By making the false certifications on the Regier deeds and recording them, Defendant committed criminal acts that reflect adversely on her honesty, trustworthiness or 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) and that was prejudicial to the administration of justice in violation of Rule 8.4(d);
- (d) By failing to disclose to K.H. that she was an attorney who represented J.J. and by telling K.H. that she could “help” with K.H.’s conflict with J.J., Defendant stated or implied that she was disinterested in violation of Rule 4.3(b);
- (e) By advising K.H. to reinstate J.J. as attorney-in-fact at a time when she knew or should have known that the interests of J.J. and K.H. were or had a reasonable possibility of being in conflict, Defendant gave legal advice to an unrepresented person in violation of Rule 4.3(a);
- (f) By assisting J.S. and A.H. in obtaining E.H.’s signature on the form power of attorney, Defendant assisted a client in conduct that she knew was criminal or fraudulent in violation of Rule 1.2(a), represented a client when the representation would result in violation of the law or Rules of Professional Conduct in violation of Rule 1.16(a)(1), and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c); and
- (g) By advising E.H. about the validity of the power of attorney and failing to correct E.H.’s misunderstanding about her role, Defendant gave legal advice to an unrepresented person when she knew his interests were in conflict with the interests of her clients in violation of Rule 4.3(a), and implied that she was disinterested and failed to correct an unrepresented person’s misunderstanding of her role in the matter in violation of Rule 4.3(b).

3. The State Bar failed to prove by clear, cogent, and convincing evidence that:

- (a) By failing to disclose to K.H. that she was an attorney who represented J.J. and by telling K.H. that she could “help” with K.H.’s conflict with J.J., Defendant knowingly made a false statement of material fact or law to a third person in violation of

Rule 4.1 and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c);

- (b) By destroying or counseling J.J. to destroy the recording of the meeting with K.H., Defendant unlawfully destroyed a document having potential evidentiary value or counseled or assisted another such person to do such an act in violation of Rule 3.4(a) and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c); and
- (c) By destroying the power of attorney E.H. executed, Defendant engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c).

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

ADDITIONAL FINDINGS OF FACT REGARDING DISCIPLINE

1. At the hearing, the Hearing Panel received testimony from a variety of witnesses, including attorneys, one of Defendant's former clients, the Clerk of Court, impacted third parties, and Defendant herself. The Hearing Panel finds that Defendant's testimony was not credible, as it was in conflict with the overwhelming credible evidence and testimony presented to the Hearing Panel during this proceeding.

2. Defendant's responses to State Bar grievance inquiries and testimony during the disciplinary hearing reflect a pervasive tendency to criticize others rather than acknowledge her own wrongdoing. For example:

- a. Defendant asserted that there was "no rational explanation" for the complaints against her and that she was instead the victim of a conspiracy among various members of the Bar and others in Transylvania County, including the elected District Attorney and Clerk of Court, and that the members of this alleged conspiracy were trying to ruin her career by making false allegations against her because they did not like her or saw her as competition;
- b. Defendant contended specifically that the elected District Attorney, Greg Newman, sought to punish her for an editorial she wrote in 2015 criticizing him;
- c. Defendant claimed that certain prominent attorneys in Transylvania County routinely lie in court in criminal, divorce, and child custody cases;
- d. Defendant characterized the attorneys in Transylvania County as being "corrupt and dishonest," "backwards and insular," and prone to bullying lawyers from elsewhere and treating them "horribly"; and

- e. Defendant dismissed concerns about her conduct from opposing counsel in the Hombordy matter as manifestations of hostility and contempt possibly related to her gender.

3. The extent of Defendant's tendency to blame and belittle was further demonstrated through the testimony of other witnesses:

- a. The managing partner of Defendant's former law firm testified that Defendant dismissed clients as being "crazy" and the lawyers who had filed complaints against Defendant as being "stupid" and "out to get me";
- b. A paralegal who worked with Defendant at Defendant's former law firm testified that Defendant, without basis, blamed her for failing to take various steps in guardianship matters and, in one instance, for Defendant's removal as guardian; and
- c. Counsel for K.H. testified that, when he spoke with Defendant about her visit to K.H.'s home, Defendant asserted that K.H. was either lying or incompetent.

4. Although Defendant has no prior disciplinary offenses, she has only been licensed since 2015. Each instance of Defendant's misconduct addressed in this proceeding was serious and occurred within the first two years of Defendant's licensure.

5. Defendant refused to submit to supervision and mentoring that was available to her at her former law firm and concealed from firm management that she had received grievances and was being criminally prosecuted for notary misconduct.

6. As set forth in the findings of fact in this Order, Defendant has engaged in a pattern of intentionally dishonest conduct across numerous different contexts.

7. Defendant's acts of notary fraud demonstrate that she prioritized her own convenience and expediency over the integrity of the judicial process.

8. Defendant had a dishonest motive in misleading her clients' elderly relatives about her role.

9. As officers of the court, attorneys have a duty to avoid conduct that undermines the integrity of the adjudicative process. When an attorney knowingly submits a forged and falsely notarized document to the court, it causes significant harm to the profession and the administration of justice. Although much of the resulting harm is due to the intangible erosion of judges' and lawyers' ability to rely on another attorney's word, sometimes the impact on the administration of justice is more concrete. Here, Defendant's knowing submission of the falsely notarized Petition and Consent Judgment caused significant potential harm to the administration of justice by causing the court to order the sale of the land when there was no legal or factual basis upon which to do so. It caused significant harm to the administration of justice because it was necessary for the court to utilize resources to set aside the fraudulent consent judgment.

10. Defendant's client T.B. suffered significant harm due to Defendant's actions. She was removed as administrator of the Browne estate, and the administration of the estate—which was very stressful for T.B.—was protracted.

11. Defendant's disregard for the notary requirements with respect to the Regier deeds caused significant harm to the administration of justice because such conduct by an attorney damages and undermines the integrity of a notarized signature. By disregarding and circumventing these requirements, Defendant showed indifference to her obligations both as a licensed attorney and a licensed notary.

12. Defendant's notarial misconduct with respect to the Regier deeds caused harm to her client, C.R., who had to hire another lawyer to correct the problems caused by Defendant. There was the potential for significant harm in that C.R.'s husband L.R. was in poor health and could have passed away before the defective notarizations were corrected.

13. Defendant's notarial misconduct with respect to the Regier deeds caused significant harm to the profession. Any time a lawyer is convicted of a crime, particularly a crime committed in the course of practice and connected to the judicial system, it harms the public's perception of the profession.

14. Defendant's conduct with respect to K.H. and E.H.—going to their homes with her clients (the adult child(ren) of K.H. and E.H.), feigning disinterest, and giving legal advice to K.H. and E.H. when she knew or should have known about the conflicts of interest that existed between them and her clients—is precisely the abuse of power prohibited by Rule 4.3. Defendant testified that this was a pattern of conduct in which Defendant routinely engaged.

15. K.H. and E.H. and other unknown victims of the misconduct described in paragraph 14 above were elderly people, already particularly vulnerable to exploitation. K.H. and E.H. experienced significant harm in the form of emotional distress, confusion, escalation of family conflict, and the additional stress and expense of involvement with the legal system.

16. Defendant has acknowledged that her notary misconduct violated the Rules of Professional Conduct. Defendant has not acknowledged that any of her other conduct violated the Rules of Professional Conduct. Defendant has not accepted responsibility for her misconduct and its consequences, has not expressed any remorse, and has not demonstrated any insight into her serious departures from the forthrightness and integrity required of those who have the privilege of practicing law.

17. In the non-legal community, Defendant has a reputation as a good citizen and a passionate advocate for her clients. In contrast, the members of the legal community who participated in this proceeding described Defendant as not trustworthy and as someone who believes that the ends justify the means and that the rules do not apply to her.

18. Defendant's approach to the practice of law is demonstrably at odds with the professional standards of North Carolina lawyers. The members of the legal community who testified in this matter expressed that Defendant's unprofessional and unethical behavior was unprecedented in their experience.

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

CONCLUSIONS WITH RESPECT TO DISCIPLINE

1. The Hearing Panel has considered all of the factors enumerated in 27 N.C. Admin. Code 1B.0116(f) of the Discipline and Disability Rules of the North Carolina State Bar.

2. The Hearing Panel concludes that the following factors from 27 N.C. Admin. Code 1B.0116(f)(1), which are to be considered in imposing suspension or disbarment, are present in this case:

- (a) Intent of the defendant to commit acts where the harm or potential harm is foreseeable;
- (b) Circumstances reflecting the defendant's lack of honesty, trustworthiness, or integrity;
- (c) Negative impact of the defendant's actions on client's or public's perception of the profession;
- (d) Negative impact of the defendant's actions on the administration of justice;
- (e) Effect of defendant's conduct on third parties; and
- (f) Acts of dishonesty, misrepresentation, deceit, or fabrication.

3. The Hearing Panel concludes that the following factors from 27 N.C. Admin. Code 1B.0116(f)(2), which require consideration of disbarment, are present in this case:

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

4. The Hearing Panel concludes that the following factors from 27 N.C. Admin. Code 1B.0116(f)(3), which are to be considered in all cases, are present in this case:

- (a) Absence of prior disciplinary offenses in this state or any other jurisdiction;
- (b) Dishonest or selfish motive;
- (c) A pattern of misconduct;
- (d) Multiple offenses;
- (e) Full and free disclosure to the hearing panel or cooperative attitude toward the proceedings;

- (f) Refusal to acknowledge wrongful nature of conduct;
- (g) Character or reputation;
- (h) Vulnerability of victim;
- (i) Degree of experience in the practice of law; and
- (j) Imposition of other penalties or sanctions.

5. The Hearing Panel has carefully considered all of the different forms of discipline available to it, including admonition, reprimand, censure, suspension, and disbarment.

6. Defendant's pattern of misconduct and refusal to acknowledge the wrongfulness of much of her misconduct indicates that she is either unable or unwilling to conform her behavior to the requirements of the Rules of Professional Conduct. Accordingly, if Defendant were permitted to continue practicing law, she would pose a significant risk of continued harm to third parties, clients, the profession, the public, and the administration of justice.

7. The Hearing Panel finds that admonition, reprimand, censure, or suspension would not be sufficient discipline because of the gravity of the harm Defendant caused to third parties, clients, the administration of justice, and the legal profession. Furthermore, the Panel finds that any sanction less than disbarment would not adequately protect the public, would fail to acknowledge the seriousness of the misconduct, and would send the wrong message to attorneys and the public about the conduct expected of members of the Bar of this State.

8. The Hearing Panel finds and concludes that the public can only be adequately protected by Defendant's disbarment and the corresponding requirement that Defendant demonstrate rehabilitation and reformation of character before she may be permitted to resume practicing law.

Based on the foregoing Findings of Fact, Conclusions of Law, Findings of Fact Regarding Discipline and Conclusions of Law Regarding Discipline, the Hearing Panel, by unanimous decision, hereby enters the following:

ORDER OF DISCIPLINE

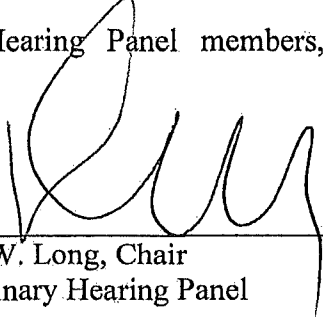
1. Defendant, Erica Marie Erickson, is hereby DISBARRED from the practice of law, effective thirty (30) days after this Order of Discipline is served upon Defendant.

2. Defendant shall submit her license and membership card to the Secretary of the North Carolina State Bar within thirty (30) days of the effective date of this Order.

3. Defendant shall comply with the wind down provisions contained in 27 N.C. Admin. Code 1B.0128 of the Rules and Regulations of the North Carolina State Bar. Defendant shall file an affidavit with the Secretary of the North Carolina State Bar within thirty (30) days of the effective date of this Order, certifying she has complied with the wind down provisions.

4. Defendant shall pay the administrative fees and costs of this disciplinary proceeding within thirty (30) days of service of the statement of fees and costs upon her by the Secretary of the North Carolina State Bar.

Signed by the Chair with the consent of the other Hearing Panel members, this the
20 day of September, 2019.



David W. Long, Chair
Disciplinary Hearing Panel