STATE OF NORTH CAROLINA

WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
18 DHC 2

FILED DHC SEP 2018

THE NORTH CAROLINA STATE BAR, Plaintiff v. PAIGE C. CABE, Attorney, Defendant	ORDER OF DISCIPLINE

This matter came on for consideration by a hearing panel of the Disciplinary Hearing Commission composed of Donald C. Prentiss, Chair, Richard V. Bennett and Cindy Marrelli pursuant to Plaintiff's Motion for Default Order Imposing Discipline and after Entry of Default on 30 July 2018. Leanor Bailey Hodge represented Plaintiff, the North Carolina State Bar. Defendant, Paige C. Cabe, has not participated in this matter and no counsel of record appeared on her behalf. Pursuant to 27 N.C. Admin. Code 1B .0115(g), the Hearing Panel decided this matter based upon the Plaintiff's Motion for Default Order Imposing Discipline.

ESTABLISHED FACTS

Pursuant to the Entry of Default against Defendant, all allegations in the complaint are deemed admitted. Therefore, the following are the established facts:

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, Paige C. Cabe ("Defendant" or "Cabe"), was admitted to the North Carolina State Bar on 23 August 1997 and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, 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, Cabe actively engaged in the practice of law in the State of North Carolina and maintained a law office in Sanford, Lee County, North Carolina.

4. Cabe maintained three general attorney trust accounts: Yadkin Bank trust account ending in no. 3675, Yadkin Bank trust account ending in no. 3683, and Fidelity Bank trust account ending in no. 0629 ("Fidelity Bank trust account").

5. On or about 25 August 2015, Defendant collected $47,500.00 from T. Blakely.

6. Defendant deposited Blakely's funds into the Fidelity Bank trust account on the date she received the funds.

7. On or about 25 August 2015, Defendant disbursed $475.00 to herself from Blakeley's funds.

8. After this disbursement, Defendant was required to maintain $47,025.00 in the Fidelity Bank trust account for Blakely.

9. Beginning in or about January 2016, Defendant made several disbursements to herself from the Fidelity Bank trust account without identifying on the face of the items the client(s) from whose balance(s) such disbursements were made.

10. Defendant was not entitled to the funds she disbursed to herself without identifying on the face of the items the client(s) from whose balance(s) such disbursements were made.

11. Defendant used such funds for her personal benefit.

12. Defendant knew she was not entitled to the funds she disbursed to herself without identifying on the face of the item the client from whose balance such disbursements were made.

13. As of February 2016, the balance in Defendant's Fidelity Bank trust account was below the $47,025.00 she was required to maintain in the account for Blakely.

14. Including the disbursement she made to herself as set forth above, Defendant made a total of four disbursements from the Fidelity Bank trust account on behalf of Blakely totaling $8,878.52.

15. After making these four disbursements and as of 12 April 2016, Defendant was required to maintain at least $38,621.48 in the Fidelity Bank trust account for Blakely.

16. As of 19 April 2016, Defendant had disbursed all but $7.03 of the funds in the Fidelity Bank trust account.

17. Defendant misappropriated Blakely's entrusted funds either by disbursing them to herself or on behalf of other clients.

18. In or about March 2017, Blakely contacted Defendant seeking return of the balance of his entrusted funds.

19. Although Defendant had already disbursed Blakely's entrusted funds either to herself or on behalf of other clients, Defendant falsely represented to Blakely that the funds were being held for his benefit.

20. On or about 5 April 2017, the State Bar opened a grievance file against Defendant concerning her conduct in the Blakely matter.

21. Defendant accepted service of the Letter of Notice on 30 May 2017.

22. The Letter of Notice informed Defendant that she was required to respond in writing to the grievance within 15 days of service of the Letter of Notice.

23. Defendant did not submit a written response to the grievance.

24. Defendant was the closing attorney for the sale of real property from L. Hussey to L. Cunliffe on 2 December 2016.

25. In furtherance of such closing, Cunliffe provided Defendant with a $3,000.00 earnest money payment.

26. On 26 September 2016, Defendant deposited Cunliffe's $3,000.00 earnest money payment into her Fidelity Bank trust account and obtained $500.00 in cash back from such deposit. Thus, the net amount Defendant deposited into the trust account on Cunliffe's behalf was $2,500.00.

27. Defendant failed to list the source of the Cunliffe deposit on the deposit slip she prepared for the earnest money payment.

28. Defendant was not entitled to the $500.00 she disbursed to herself from Cunliffe's earnest money payment.

29. Defendant knew she was not entitled to such funds.

30. Defendant misappropriated $500.00 from Cunliffe's earnest money payment.

31. In or about December 2016, Cunliffe provided Defendant with certified funds in the amount of $185,803.82 as payment of the purchase price for Hussey's property.

32. On 5 December 2016, Defendant deposited the funds she received from Cunliffe into her Fidelity Bank trust account.

33. Defendant was required to use a portion of the sales proceeds to pay off Hussey's mortgage.

34. On or about 8 December 2016, Defendant disbursed $15,311.38 to Hussey, which was the portion of the sales proceeds Hussey was entitled to receive.

35. After disbursement to Hussey, Defendant was required to maintain $173,492.44 of the sales proceeds in the Fidelity Bank trust account, a portion of which was for use to payoff Hussey's mortgage.

36. Defendant did not disburse any funds to pay off Hussey's mortgage until 17 March 2017.

37. Between 8 December 2016 and 27 December 2016, Defendant made several disbursements to herself without identifying on the face of the items the client balance(s) from which the funds were drawn.

38. On 27 December 2016, the balance in the Fidelity Bank trust account was $166,206.57, below the balance of funds Defendant was required to maintain in trust from the Hussey-Cunliffe closing.

39. Defendant was not entitled to the funds she disbursed from the Fidelity Bank trust account to herself between 8 December 2016 and 27 December 2016. These were entrusted funds she was required to maintain in the Fidelity Bank trust account for her clients, including Cunliffe.

40. Defendant knew she was not entitled to the funds she disbursed to herself from the Fidelity Bank trust account between 8 December 2016 and 27 December 2016.

41. Defendant misappropriated these funds.

42. Upon learning that Hussey's mortgage had not been paid and that the property she recently purchased was still encumbered, Cunliffe made several attempts to communicate with Defendant.

43. Defendant did not respond to several of Cunliffe's attempts to communicate with her.

44. On or about 7 February 2017, Hussey filed a grievance complaint against Defendant with the State Bar because her mortgage had not yet been paid.

45. On 9 February 2017, Defendant was contacted by a State Bar investigator as a result of Hussey's complaint and asked to provide documentation to show that she had paid off Hussey's mortgage.

46. On or about 3 March 2017, Defendant sent documents she purported were the October 2016 statement for the Fidelity Bank trust account and the deposit slip for her deposit of Cunliffe's $3,000.00 earnest money deposit.

47. This deposit slip identified Cunliffe as the source of the deposit.

48. It did not show that Defendant obtained $500.00 in cash back from the earnest money deposit.

49. On or about 23 March 2017, Defendant acknowledged receipt of a Subpoena for Cause Audit which required Defendant to produce her trust account bank statements and other trust account records.

50. Defendant did not produce her trust account records as required by the subpoena.

51. On or about 3 April 2017, Defendant sent five emails to which she attached documents she purported were the bank statements for the Fidelity Bank trust account for the time period January 2015 – September 2016.

52. The State Bar also obtained records for the Fidelity Bank trust account directly from Fidelity Bank.

53. Comparison of the records Defendant provided for the Fidelity Bank trust account against the records obtained directly from Fidelity Bank revealed discrepancies between the two sets of records.

54. The bank records provided by Fidelity Bank included checks and check images that were omitted from the records Defendant provided.

55. The bank records provided by Fidelity Bank included withdrawals and other debits that were omitted from the records Defendant provided.

56. Also, the beginning and ending balances on the bank statements Defendant provided differed from the balances shown on the statements provided by the bank.

57. The bank records Defendant provided to the State Bar gave the false appearance that she maintained more funds in trust for Cunliffe than that which was actually maintained in the trust account.

58. Defendant provided falsified bank records to the State Bar.

59. On or about 27 March 2015, L. Gaster retained Defendant to represent her in a divorce.

60. This representation was to include preparation and finalization of a separation agreement and qualified domestic relations order.

61. Gaster paid Defendant $1,400.00 for this representation.

62. Although Defendant finalized Gaster's divorce, she failed to finalize the qualified domestic relations order.

63. Defendant did not earn the entire fee she collected from Gaster.

64. Defendant failed to refund the unearned fee.

65. On or about 8 May 2017, the State Bar opened a grievance file against Defendant concerning her conduct in the Gaster matter.

66. Defendant accepted service of the Letter of Notice on 30 May 2017.

67. The Letter of Notice informed Defendant that she was required to respond in writing to the grievance within 15 days of service of the Letter of Notice.

68. Defendant did not submit a written response to the grievance.

69. In August 2016, L. Petty retained Defendant to prepare and file a 90-day inventory for an estate.

70. Petty paid Defendant $202.00 for this representation.

71. Defendant failed to prepare and file the 90-day inventory.

72. Defendant failed to refund the unearned fee for the estate matter.

73. Petty also paid Defendant $125.00 to handle an eviction matter.

74. Defendant failed to perform any meaningful work for Petty in the eviction matter.

75. Defendant failed to refund the unearned fee for the eviction matter.

76. Petty attempted to communicate with Defendant to obtain an update on the status of his legal matters.

77. Defendant failed to respond to Petty's attempts to communicate with her.

78. On or about 4 November 2016, L. Yow retained Defendant to obtain a passport for Yow's grandson so he could join Yow on a cruise.

79. Yow initially paid Defendant $1,500.00 for this representation.

80. On or about 22 November 2016, in response to a request from Defendant, Yow paid Defendant an additional $175.00 for filing and service fees.

81. Defendant did not deposit the funds she collected from Yow for filing and service fees into a trust account.

82. Defendant used these funds for her personal benefit though she was not entitled to such funds.

83. Defendant knew she was not entitled to use the funds Yow paid for filing and service fees for Defendant's personal benefit.

84. Defendant misappropriated the funds Yow paid for filing and service fees.

85. Defendant failed to perform any meaningful work on behalf of Yow and did not obtain a passport for Yow's grandson.

86. Yow made several attempts to communicate with Defendant to obtain an update on the status of Defendant's representation of her.

87. Although Defendant responded to some of Yow's attempts with false status updates, Defendant failed to respond to several of Yow's attempts to communicate with her.

88. On or about 21 February 2017, Yow terminated Defendant's representation of her and requested refund of the unearned legal fee and return of her client file.

89. Defendant did not respond to Yow's February 21st communication, nor did she refund the unearned fee or return the client file.

90. On or about 28 March 2017, the State Bar opened a grievance file against Defendant concerning her conduct in the Yow matter.

91. Defendant accepted service of the Letter of Notice on 30 May 2017.

92. The Letter of Notice informed Defendant that she was required to respond in writing to the grievance within 15 days of service of the Letter of Notice.

93. Defendant did not submit a written response to the grievance.

94. On or about 29 November 2016, D. O'Quinn retained Defendant to handle a traffic matter for her son.

95. O'Quinn paid Defendant $275.00 for this representation.

96. Defendant did not appear in the traffic matter on O'Quinn's son's behalf.

97. Defendant did not otherwise resolve O'Quinn's son's traffic matter.

98. Defendant did not inform O'Quinn or her son that she did not resolve the traffic matter.

99. On or about 18 April 2017, O'Quinn's son received a letter from the North Carolina Division of Motor Vehicles stating that the traffic matter remained unresolved and his license would be indefinitely suspended on 17 June 2017 if the traffic ticket was not paid.

100. On behalf of her son, O'Quinn attempted to communicate with Defendant about the status of Defendant's representation of her son.

101. Defendant failed to respond to O'Quinn's attempts to communicate with her.

102. On or about 10 May 2017, the State Bar opened a grievance file against Defendant concerning her conduct in the O'Quinn matter.

103. Defendant accepted service of the Letter of Notice on 30 May 2017.

104. The Letter of Notice informed Defendant that she was required to respond in writing to the grievance within 15 days of service of the Letter of Notice.

105. Defendant did not submit a written response to the grievance.

106. N. Mullins retained Defendant to represent him in criminal matters pending in Chatham County.

107. Mullins' case was set for hearing on 23 January 2017.

108. Although Mullins appeared in court for the January 23rd setting, Defendant failed to appear in court on Mullins' behalf.

109. Defendant did not inform Mullins that she would not appear nor did she offer any excuse to him for her failure to appear.

110. Defendant also failed to notify the court that she would not appear or to offer any excuse to the court for her failure to appear.

111. The prosecutor rescheduled Mullins' case to 20 February 2017.

112. Although Mullins appeared in court for the February 20th setting, Defendant failed to appear in court on Mullins' behalf.

113. Defendant did not inform Mullins that she would not appear nor did she offer any excuse to him for her failure to appear.

114. Defendant also failed to notify the court that she would not appear or to offer any excuse for her failure to appear.

115. The prosecutor rescheduled Mullins' case to 8 March 2017.

116. On 8 March 2017, Defendant appeared in court with Mullins.

117. The prosecutor discussed with Defendant possible ways in which Mullins' matters could be resolved without a trial.

118. After her discussion with the prosecutor, Defendant asked to have Mullins' case continued so that she could discuss these options with Mullins.

119. Accordingly, the prosecutor continued Mullins' case to 20 March 2017.

120. Although Mullins appeared in court for the March 20th setting, Defendant failed to appear in court on Mullins' behalf.

121. Defendant did not inform Mullins that she would not appear nor did she offer any excuse for her failure to appear.

122. Defendant also failed to notify the court that she would not appear or to offer any excuse for her failure to appear.

123. Mullins' case was ready for resolution on March 20th, but was not resolved because of Defendant's failure to appear.

124. After Defendant's failure to appear for Mullins on March 20th, the court appointed a public defender to represent Mullins.

125. After agreeing with the public defender to resolve Mullins' criminal matters with a misdemeanor plea agreement, the prosecutor rescheduled Mullins' case to 17 April 2017.

126. On or about 22 March 2017, the State Bar opened a grievance file against Defendant concerning her conduct in the Mullins matter.

127. Defendant accepted service of the Letter of Notice on 30 May 2017.

128. The Letter of Notice informed Defendant that she was required to respond in writing to the grievance within 15 days of service of the Letter of Notice.

129. Defendant did not submit a written response to the grievance.

130. On or about 15 March 2017, the State Bar opened a grievance against Defendant in response to allegations that she had engaged in misconduct in her handling of checks made payable to the counties of Harnett and Lee.

131. Defendant accepted service of the Letter of Notice on 30 May 2017.

132. The Letter of Notice informed Defendant that she was required to respond in writing to the grievance within 15 days of service of the Letter of Notice.

133. Defendant did not submit a written response to the grievance.

Based on the foregoing Established Facts, 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, Paige C. Cabe and the subject matter of this proceeding.

2. Entry of Default by the Secretary of the State Bar was proper.

3. Pursuant to N.C. Admin. Code 1B.0115(g) and 1B.0115(l)(4) Plaintiff's Motion for Default Order Imposing Discipline may be decided based on the parties' written submissions.

4. Defendant's conduct, as set forth in the Established Facts 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 failing to maintain Blakely's entrusted funds in the Fidelity Bank trust account, Defendant failed to properly maintain entrusted funds in violation of Rule 1.15-2(a);

b. By misappropriating Blakely's entrusted funds for her personal benefit or for the benefit of others not entitled to such funds, Defendant used entrusted property for her personal benefit or the benefit of persons other than the legal or beneficial owner of that property in violation of Rule 1.15-2(j),[1] committed a criminal act that reflects adversely on her honesty, trustworthiness, or fitness as a lawyer in other respects in violation of Rule 8.4(b), and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c);

c. By failing to promptly disburse the balance of Blakely's funds and instead disbursing such funds to herself and on behalf of others, Defendant failed to promptly pay or deliver to the client, or to third persons as directed by the client, entrusted properly belonging to the client and to which the client was currently entitled in violation of Rule 1.15-2(m);[2]

d. By falsely representing to Blakely that she maintained his funds in trust, Defendant engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c);

e. By failing to submit a written response to the Letter of Notice in the Blakely matter, Defendant failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b);

f. By misappropriating $500.00 of Cunliffe's earnest money payment, Defendant failed to properly maintain entrusted funds in violation of Rule 1.15-2(a), used entrusted property for her personal benefit in violation of 1.15-2(j),[3] committed a criminal act that reflects adversely on her honesty, trustworthiness, or fitness as a lawyer in other respects 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 failing to promptly pay off the Hussey mortgage, Defendant failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3 and failed to promptly pay to a third party as directed by the client entrusted property belonging to the

[1] Now codified as Rule 1.15-2(k).
[2] Now codified as Rule 1.15-2(n).
[3] Now codified as Rule 1.15-2(k).

client and to which the client was currently entitled in violation of Rule 1.15-2(m),[4]

h. By disbursing funds from the trust account to herself without identifying on the face of the item the client balance from which the funds were drawn, Defendant failed to properly maintain entrusted funds in violation of Rule 1.15-2(a), failed to indicate on the face of items drawn on the trust account and payable to the lawyer information to identify the client from whose funds such disbursement was made in violation of Rule 1.15-2(h), and failed to maintain the minimum records for a general trust account in violation of Rule 1.15-3(b);

i. By misappropriating a portion of the funds from the Hussey-Cunliffe closing, Defendant used entrusted property for her personal benefit or the benefit of one other than the legal or beneficial owner in violation of Rule 1.15-2(j),[5] committed a criminal act that reflects adversely on her honesty, trustworthiness, or fitness as a lawyer in other respects in violation of Rule 8.4(b), and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c);

j. By failing to respond to several of Cunliffe's attempts to communicate with her about the status of payoff of Hussey's mortgage, Defendant failed to keep the client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3) and failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4);

k. By failing to produce the requested documents in response to the Subpoena for Cause Audit in the Hussey-Cunliffe matter, Defendant failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b);

l. By providing falsified bank records to the State Bar in response to a request for records during a grievance investigation in the Hussey-Cunliffe matter, Defendant failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b), engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c), and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);

m. By failing to finalize the qualified domestic relations order, Defendant failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3 and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);

n. By failing to refund the unearned fees she collected from Gaster for finalization of the qualified domestic relations order, Defendant failed

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[4] Now codified as Rule 1.15-2(n).

[5] Now codified as Rule 1.15-2(k).

to take steps to protect her client's interests in violation of Rule 1.16(d);

o. By failing to submit a written response to the Letter of Notice in the Gaster matter, Defendant failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b);

p. By failing to prepare and file the 90-day inventory and to perform any meaningful work for the eviction matter, Defendant failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3 and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);

q. By collecting $202.00 from Petty to prepare and file a 90-day inventory and then failing to prepare and file such inventory, Defendant collected a clearly excessive fee in violation of Rule 1.5(a);

r. By failing to refund the unearned fees she collected from Petty for the estate and eviction matters, Defendant failed to take steps to protect her client's interests in violation of Rule 1.16(d);

s. By failing to respond to Petty's attempts to communicate with her about the status of his legal matters, Defendant failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4);

t. By failing to obtain the passport for Yow's grandson, Defendant failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;

u. By collecting a legal fee to obtain a passport for Yow's grandson and then failing to perform the legal services for which she was paid, Defendant collected a clearly excessive fee in violation of Rule 1.5(a);

v. By failing to deposit the funds she collected from Yow for payment of filing and service fees into a trust account, Defendant failed to properly maintain entrusted funds in violation of Rule 1.15-2(a) and failed to deposit entrusted funds into a trust account in violation of Rule 1.15-2(b);

w. By misappropriating the funds she collected from Yow for payment of filing and service fees, Defendant used entrusted property for her personal benefit in violation of Rule 1.15-2(j)[6], committed a criminal act that reflects adversely on her honesty, trustworthiness, or fitness as a lawyer in other respects in violation of Rule 8.4(b), and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c);

[6] Now codified as Rule 1.15-2(k).

x. By failing to respond to Yow's attempts to communicate with her about Yow's legal matter, Defendant failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4);

y. By providing false status updates to Yow about her legal matter, Defendant failed to keep the client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3) and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c);

z. By failing to return Yow's client file and failing to refund the unearned fee she collected from Yow, Defendant failed to take steps to protect her client's interests in violation of Rule 1.16(d);

aa. By failing to submit a written response to the Letter of Notice in the Yow matter, Defendant failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b);

bb. By failing to appear or otherwise resolve the traffic matter on O'Quinn's son's behalf, Defendant failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3 and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);

cc. By collecting a legal fee to represent O'Quinn's son in a traffic matter and then failing to perform the legal services for which she was paid, Defendant collected a clearly excessive fee in violation of Rule 1.5(a);

dd. By failing to inform O'Quinn's son that she did not resolve the traffic matter, Defendant failed to keep the client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3);

ee. By failing to respond to O'Quinn's attempts to communicate with her about the traffic matter, Defendant failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4);

ff. By failing to submit a written response to the Letter of Notice in the O'Quinn matter, Defendant failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b);

gg. By failing to appear in court for Mullins on several occasions, including failure to appear on March 20th when the case was ready for resolution, Defendant failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3, failed to make reasonable efforts to expedite the litigation consistent with the interests of the client in violation of Rule 3.2, and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);

hh. By failing to appear in court on behalf of Mullins on several occasions without explanation to the court, Defendant knowingly disobeyed an obligation under the rules of a tribunal in violation of Rule 3.4(c);

ii. By failing to submit a written response to the Letter of Notice in the Mullins matter, Defendant failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b); and

jj. By failing to submit a written response to the Letter of Notice in the matter concerning checks payable to the counties of Harnett and Lee, Defendant failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b).

Based on the foregoing Established Facts and Conclusions of Law, the Hearing Panel enters the following:

CONCLUSIONS OF LAW REGARDING DISCIPLINE

1. The Hearing Panel has considered all of the factors contained in 27 N.C. Admin. Code 1B.0116(f)(1) and concludes that the following factors that warrant suspension or disbarment are present:

a. Intent of the defendant to cause the resulting harm or potential harm;

b. Intent of the defendant to commit acts where the harm of potential harm is foreseeable;

c. Circumstances reflecting the defendant's lack of honesty, trustworthiness, or integrity;

d. Elevation of the defendant's own interest above that of the client;

e. Negative impact of the defendant's actions on clients' or public's perception of the profession;

f. Negative impact of the defendant's actions on the administration of justice;

g. Impairment of clients' ability to achieve the goals of the representation; specifically, Cunliffe, Gaster, Petty, Yow, O'Quinn, and Mullins; and

h. Acts of dishonesty, misrepresentation, deceit or fabrication.

2. The Hearing Panel has considered all of the factors contained in 27 N.C. Admin. Code 1B.0116(f)(2) and concludes that the following factors that warrant disbarment are present:

a. Acts of dishonesty, misrepresentation, deceit or fabrication;

b. Misappropriation or conversion of assets of any kind to which the defendant or recipient is not entitled, whether from a client or any other source; and

c. Commission of a felony.

3. The Hearing Panel has considered all of the factors enumerated in 27 N.C. Admin. Code 1B.0116(f)(3), the Rules and Regulations of the State Bar, and concludes that the following are applicable in this matter:

a. Dishonest or selfish motive;

b. Pattern of misconduct;

c. Multiple offenses; and

d. 21 years of experience in the practice of law.

4. By misappropriating entrusted client funds, Defendant has caused harm to the standing of the legal profession in that her conduct undermines the trust and confidence that the public has in lawyers and the legal system.

5. Defendant caused significant harm to her clients, including Blakely, Hussey, Cunliffe, and Yow, by misappropriating their entrusted funds.

6. Defendant caused significant harm to the profession by reinforcing the negative stereotype that lawyers are selfish and out for personal gain.

7. Defendant caused significant harm to the administration of justice in the cases of Gaster, Petty, O'Quinn, and Mullins.

8. The Hearing Panel has considered all lesser sanctions including: suspension, censure, reprimand and admonition and finds that discipline less than disbarment would not adequately protect the public from Defendant's future misconduct for the following reasons:

a. Defendant committed a criminal act, specifically embezzlement, that reflects adversely on her honesty, trustworthiness or fitness as a lawyer in other respects and violated the trust of her clients, including Blakely, Hussey, Cunliffe, and Yow;

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 lawyers 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 return to the practice of law until she demonstrates the following by clear, cogent and convincing evidence: (i) that she has reformed, (ii) that she possesses the moral qualifications required for admission to practice law in North Carolina, taking into account the misconduct that is the subject of this order, (iii) that she understands the current Rules of Professional Conduct, including but not limited to those Rules relating to "Safekeeping Property" as set forth in Rule 1.15 et seq.; and (iv) that reinstatement will not be detrimental to the public or the integrity and standing of the legal profession. Disbarment is the only discipline that will require Defendant to make such a showing before returning to the practice of law.

Based upon the foregoing Established Facts, Conclusions of Law, and Conclusions of Law Regarding Discipline, the Hearing Panel hereby enters the following:

ORDER OF DISCIPLINE

1. Defendant, Paige C. Cabe, is hereby DISBARRED from the practice of law.

2. Defendant shall surrender her 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 within 30 days of service of the statement of costs upon her by the Secretary of the State Bar the administrative fees and costs of this proceeding.

4. Defendant shall comply with all provisions of 27 N.C. Admin. Code 1B.0128.

5. Defendant shall provide the following to the State Bar within thirty days of the effective date of this Order:

a. Current contact information for all clients who have or should have funds in Cabe's accounts. Defendant shall cooperate with the State Bar to account for and disburse all client funds as appropriate; and

b. A physical address (not P.O. Box or Drawer) and telephone number at which clients seeking return of their files can communicate with Defendant and obtain such files.

6. Defendant shall return client files to the client within five days of receipt of a request for return of the client file. Defendant will be deemed to have received any

such request three days after the date the request is sent to Defendant if the request is sent to the address Defendant provided to the State Bar pursuant to this Order.

Signed by the Chair with the consent of the other Hearing Panel members, this the 12 day of September, 2018.

Donald C. Prentiss

Donald C. Prentiss, Chair
Disciplinary Hearing Panel