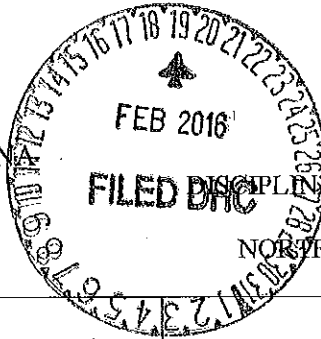


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
15 DHC 49

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

NATHAN M.J. WORKMAN, Attorney,

Defendant

CONSENT ORDER OF  
DISCIPLINE

This matter was considered by a Hearing Panel of the Disciplinary Hearing Commission ("DHC") composed of Fred M. Morelock, Chair, and members William O. King and Christopher R. Bruffey, pursuant to North Carolina Administrative Code, Title 27, Chapter 1, Subchapter B, § .0114(h). Plaintiff was represented by Mary D. Winstead. Defendant, Nathan M. J. Workman, was represented by Stephen Corby. Both Plaintiff and Defendant stipulate and agree to the findings of fact and conclusions of law recited in this Consent Order and to the discipline imposed. Defendant has freely and voluntarily stipulated to the foregoing findings of fact and consents to the conclusions of law and entry of the order of discipline. Defendant freely and voluntarily waives any and all right to appeal the entry of this Consent Order of Discipline.

Based upon the pleadings in this matter, the parties' stipulations of fact, and with the consent of the parties, the Hearing Panel hereby enters the following:

**Findings of Fact**

1. Plaintiff, the North Carolina State Bar ("State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, Nathan M. J. Workman, was admitted to the North Carolina State Bar in March 2010 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 all or part of the relevant periods referred to herein, Defendant was engaged in the practice of law in the State of North Carolina and maintained a law office in Indian Trail, Union County, North Carolina.

**L.T. Estate**

4. In August or September 2012, M.G. retained Defendant to handle the estate of L.T. (hereinafter "L.T. estate").

5. In connection with his representation in the L.T. estate, Defendant provided M. G. with a legal services agreement.

6. According to the legal services agreement, Defendant charged \$1,800.00, \$305.00 of which was for court costs and probate fees. The legal services agreement did not state that Defendant's fee was earned immediately upon payment.

7. Defendant also provided M.G. a document entitled "Notice Regarding Fees & Voluntary Waiver" (hereinafter "trust waiver").

8. The trust waiver contained a provision giving M.G. the option of waiving "the trust accounting rule that funds received from clients for court costs, fees, and expenses must be deposited in a designated trust account."

9. The trust waiver also provided: "If you waive this rule, any funds received for court costs, fees, and expenses less than \$1000.00 will be deposited and held in a designated account for expenses. You will not receive a statement for these funds monthly, and you will not be subject to any monthly fees per transaction. Upon conclusion of representation, any funds received which have not been expended will be kept by the firm as legal service fees."

10. The trust waiver also contained a provision that allowed Defendant to charge the client "a monthly fee of \$20.00 per transaction (credit or debit)" for transactions on the trust account.

11. M.G. signed the trust waiver, and \$305.00, the amount the client paid for costs, fees and expenses, was deposited into an account with Park Sterling Bank, account number ending in 2033. This Park Sterling account was not an attorney trust account.

12. On October 4, 2012, Defendant applied for and was issued Letters of Administration in the Estate of L.T., Mecklenburg County file no. 12 E 3046.

13. Defendant listed his address on the Application for Letters of Administration as: Nathan Michael Workman, Esq., 1000-E Van Buren Ave, Indian Trail, NC 28079.

14. On or about January 30, 2013, Defendant filed the Inventory in the L.T. estate.

15. On or about March 25, 2013, Defendant executed the Estate Tax Certification for the L.T. estate and the Final Account.

16. On or about March 25, 2013, Defendant's office delivered to the Mecklenburg County Clerk of Court's Office (hereinafter "clerk") a cover letter with enclosures of the Final Account, the Estate Tax Certification, and a check in the amount of \$179.33 for the filing fee.

17. The check was drawn on the account referenced in paragraph 11 above, which was not a trust account.

18. On or about March 26, 2013, the clerk mailed to Defendant at 1000-E Van Buren Ave., Indian Trail, NC 28079 Notice that the Final Account submitted for the L.T. estate was incomplete in several respects and was being returned to him.

19. The clerk also returned to Defendant the un-negotiated \$179.33 check.

20. On October 25, 2013, the clerk mailed Defendant a Notice to File Final Account/Affidavit for the L.T. estate.

21. The clerk mailed the Notice to Defendant at 1000-E Van Buren Ave., Indian Trail, NC 28079 and also mailed a copy to Defendant at 1000 Van Buren Avenue, Suite E, Indian Trail, NC 28079.

22. On or about December 13, 2013, the clerk entered an Order to File Account in the L.T. estate, noting that Defendant had failed to file the Final Account as required by law.

23. The clerk mailed the Order by certified mail, return receipt requested, to Defendant at 1000-E Van Buren Ave, Indian Trail, NC 28079 and also mailed a copy to Defendant at 1000 Van Buren Avenue, Suite E, Indian Trail, NC 28079.

24. An individual signing as agent for Defendant signed for the Order on or about December 16, 2013.

25. Defendant did not file the Final Account in the L.T. estate until May 30, 2014.

#### **S.P. Estate**

26. In May 2013, Defendant was retained by T.J. to handle the estate of S.P.

27. On May 15, 2013, Defendant applied for and was issued Letters Testamentary in the estate of S.P. (hereinafter "S.P. estate"), Mecklenburg County file no. 13 E 1662.

28. Defendant listed his address on the Application for Letters Testamentary as: Nathan Workman, Esq., Radius Law Group, 1000 Van Buren Ave., Suite E, Indian Trail, NC 28079.

29. On or about August 30, 2013, the clerk mailed to Defendant a Notice to File Inventory for the S.P. estate.

30. The clerk mailed the Notice to: Nathan Michael James Esq [sic] Workman, Radius Law Group, 1000 Van Buren Ave, Suite E, Indian Trail, NC 28079 and also mailed a copy to: Nathan Workman, 1000 Van Buren Ave., Suite E, Indian Trail, NC 28079.

31. On or about October 22, 2013, the clerk entered an Order to File Inventory for the S.P. estate noting that Defendant had failed to file the Inventory as required by law.

32. The clerk mailed the Order by certified mail, return receipt requested, to: Nathan Michael James Esq [sic] Workman, Radius Law Group, 1000 Van Buren Ave., Suite E, Indian Trail, NC 28079 and also mailed a copy to Nathan Workman, 1000 Van Buren Avenue, Suite E, Indian Trail, NC 28079.

33. An individual signing as agent for Defendant signed for the Order on or about November 5, 2013.

34. Defendant did not file the Inventory for the S.P. estate until May 30, 2014.

#### **Show Cause Orders**

35. On or about April 8, 2014, the clerk issued an Order to Show Cause to Defendant for failure to file the Final Account in the L.T. estate. Defendant's Show Cause hearing was set for May 8, 2014.

36. The clerk mailed the Show Cause Order by certified mail, return receipt requested, addressed as follows: Nathan M. Workman, 1000-E Van Buren Ave, Indian Trail, NC 28079 and also mailed a copy to: Nathan Workman, 1000 Van Buren Avenue, Suite E, Indian Trail, NC 28079.

37. An individual signing as agent for Defendant signed for the Show Cause Order on April 15, 2014.

38. On or about April 8, 2014, the clerk issued an Order to Show Cause for failure to file the Inventory in the S.P. estate. Defendant's Show Cause hearing was set for May 8, 2014.

39. The clerk mailed the Show Cause Order by certified mail, return receipt requested, addressed as follows: Nathan Michael James Workman, Radius Law Group, 1000 Van Buren Ave., Suite E, Indian Trail, NC 28079 and also mailed a copy to: Nathan Workman, 1000 Van Buren Avenue, Suite E, Indian Trail, NC 28079.

40. An individual signing as agent for Defendant signed for the Show Cause Order on April 15, 2014.

41. Defendant failed to appear at the Show Cause hearings on May 8, 2014.

42. An assistant clerk called Defendant twice after he failed to appear at the Show Cause hearings and both times left a message for Defendant to call her, but Defendant did not return the calls.

43. On or about May 26, 2014, the clerk faxed and mailed to Defendant a letter informing him that orders for his arrest would be issued unless he filed the account and inventory immediately.

44. The clerk mailed the letter to Nathan Workman, Esq., Radius Law Group, 1000 Van Buren Ave., Suite E, Indian Trail, NC 28079.

45. On or about May 30, 2014, Defendant filed the documents necessary to close the L.T. and S.P. estates.

#### **Additional Trust Account Issues**

46. Between January and October 2013, Defendant failed to always identify on the checks drawn on his trust account on which client balance the checks were drawn.

47. In July 2013, Defendant withdrew \$400.00 from his trust account by means of a counter check in order to pay for Park Sterling Bank to issue a cashier's check for \$400.00 to a client and failed to identify on the counter check on which client balance the check was drawn.

Based upon the consent of the parties and the foregoing stipulated 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 and the subject matter of this proceeding.

2. Defendant's conduct, as set out in the stipulated Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) as follows:

- (a) By failing, as a fiduciary for the L.T. estate, to timely file the Final Account for the L.T. estate, Defendant failed to act with reasonable diligence and promptness in representing his client in violation of Rule 1.3, failed to timely render to judicial officials the requisite inventory and accountings of fiduciary funds and other entrusted property in violation of Rule 1.15-3(f), and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
- (b) By failing, as a fiduciary for the S.P. estate, to timely file the Inventory for the S.P. estate, Defendant failed to act with reasonable diligence and promptness in representing his client in violation of Rule 1.3, failed to timely render to judicial officials the requisite inventory and accountings of fiduciary funds and other entrusted property in violation of Rule 1.15-3(f), and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
- (c) By failing to appear at the Show Cause hearings concerning the L.T. and S.P. estates, Defendant failed to act with reasonable diligence and promptness in representing his clients in violation of Rule 1.3 and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
- (d) By depositing funds received from the client for the payment of court costs and probate fees into a bank account that was not a trust account, Defendant failed to

properly maintain entrusted funds in violation of Rule 1.15-2(a) and failed to deposit trust funds in a trust account in violation of Rule 1.15-2(b);

- (e) By charging clients \$20.00 per transaction for transactions on his trust account irrespective of the actual costs incurred, Defendant charged a clearly excessive amount for expenses in violation of Rule 1.5(a);
- (f) By failing to identify on checks drawn on his trust account on which client balance the checks were drawn, Defendant violated Rule 1.15-3(b)(2); and
- (g) By drawing a check on his trust account made payable to cash, Defendant violated Rule 1.15-2(i).

Upon the consent of the parties, the Hearing Panel also finds by clear, cogent, and convincing evidence the following:

#### **Findings of Fact Regarding Discipline**

1. Defendant has no prior disciplinary record concerning his license to practice law.
2. Defendant fully cooperated with all of the State Bar's inquiries regarding these matters.
3. When Defendant committed these Rule violations, he had been licensed as an attorney less than five years.
4. Defendant's failure to respond to the clerk and failure to follow the trust accounting rules had the potential for significant harm to his clients.
5. While Defendant's conduct concerning the trust accounting Rules demonstrates a lack of understanding or disregard of the Rules regarding the safeguarding of client funds, there is no evidence that he misappropriated entrusted funds.
6. The Hearing Panel has carefully considered all of the different forms of discipline available to it, including admonition, reprimand, censure, suspension, and disbarment, in considering the appropriate discipline to impose in this case.

Based on the Findings of Fact and Conclusions of Law above and the additional Findings of Fact Regarding Discipline, the Hearing Panel makes the following:

#### **Conclusions With Respect To 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 the following factors warrant suspension of Defendant's license:

- (a) Negative impact of defendant's actions on client's or public's perception of the profession;
- (b) Negative impact of the defendant's actions on the administration of justice; and
- (c) Impairment of the client's ability to achieve the goals of the representation;

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 no factors are present in this instance that would warrant disbarment.

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) Defendant's lack of prior disciplinary offenses;
- (b) Defendant engaged in multiple offenses;
- (c) Defendant's cooperative attitude toward the proceedings; and
- (d) Degree of experience in the practice of law

4. Defendant's conduct, if continued or tolerated by the Bar, poses significant potential harm to future clients.

5. The Hearing Panel has considered issuing an admonition, reprimand or censure but concludes that such discipline would not be sufficient discipline because of the gravity of the potential harm to the clients. The Panel further concludes that such discipline would fail to adequately protect the public and send the wrong message to attorneys regarding the conduct expected of members of the Bar in this State.

6. This Hearing Panel has considered lesser alternatives and concludes that a stayed suspension is necessary to ensure Defendant complies with necessary conditions to avoid significant harm or the potential for significant harm to clients.

7. For these reasons, this Hearing Panel finds that an order imposing discipline short of a stayed suspension of Defendant's law license would not be appropriate.

Based upon the foregoing findings of fact and conclusions of law and the findings of fact and conclusion regarding discipline, and based upon the consent of the parties, the Hearing Panel enters the following:

#### **Order of Discipline**

1. Defendant, Nathan M.J. Workman, is hereby suspended from the practice of law for one year, effective thirty days from service of this order upon Defendant.

2. The one year suspension is stayed for a period of three years as long as Defendant complies, and continues to comply with the following conditions each year the stay is in effect:

(a) To ensure Defendant's future compliance with Rule 1.15 of the Rules of Professional Conduct:

- i. Each quarter that the Defendant possesses or controls any entrusted property as defined in Rule 1.15-1(e) and/or maintains any trust or fiduciary account(s), Defendant shall provide the Office of Counsel of the State Bar with an accurate three-way reconciliation required by Rule 1.15-3(d)(1) for all trust accounts maintained by him.
  - ii. In addition to the required quarterly reconciliations, for the months covered by each quarterly reconciliation, Defendant shall provide the Office of Counsel of the State Bar with : (i) client ledgers for each client whose funds are held in the trust account during the quarter, (ii) ledger(s) for any personal funds maintained in the trust account(s) for bank or credit card fees, (iii) general ledger(s) for each trust account to which Defendant has access, and (iv) the bank statement, cancelled checks and deposit slips for each trust account which Defendant maintains;
  - iii. The reconciliation reports shall be delivered to the Office of Counsel of the State Bar no later than thirty days after the end of each quarter (first quarter report due April 30, second quarter report due July 31, third quarter report due October 31, and fourth quarter report due January 31);
  - iv. If any quarterly reconciliation reveals any irregularities or deficiencies, Defendant shall take all remedial action necessary to bring the trust account(s) into compliance with the Rules of Professional Conduct and shall provide proof of the remedial action and compliance to the Office of Counsel of the State Bar within thirty days of the date of the report; and
  - v. All reconciliations referred to herein will be completed and submitted at Defendant's sole expense;
- (b) On or before June 30 each year the stay is in effect, Defendant shall submit an affidavit certifying to the North Carolina State Bar that all general trust accounts, dedicated trust accounts, and fiduciary accounts maintained by Defendant or his law firm are administered, to the best of his knowledge, in compliance with the requirements of Rule 1.15 (including all subparts) or that he is exempt from this provision because Defendant does not maintain any trust or fiduciary accounts for North Carolina client funds;
- (c) In addition to the CLE requirements set out in 27 N.C. Admin. Code 1D § .1518, Defendant shall, within one year of the effective date of this Order, successfully complete: i) four hours of Continuing Legal Education (CLE) in the area of trust account management, one hour of which shall be a trust account



CLE course taught by Trust Account Compliance Counsel for the North Carolina State Bar, and ii) at least four hours of CLE in law office management. Courses proposed to fulfill the requirements of this paragraph must be approved in advance by the Office of Counsel and will be at Defendant's own expense. Defendant shall provide written proof of successful completion of the trust account and law office management courses to the Office of Counsel within ten days of completion of each course;

- (d) Unless Defendant is on secure leave pursuant to Rule 26 of the General Rules of Practice for the Superior and District Courts, Defendant must personally respond to communications from his clients within twenty-four hours or direct a member of his staff to provide clients a time when Defendant will respond and in that case, Defendant shall respond within forty-eight hours and in no event shall Defendant fail to personally respond within forty-eight hours;
- (e) In the event Defendant is on secure leave, he must leave messages on all of his voice mail boxes and e-mail accounts informing the caller/correspondent when he will return from secure leave and must return all calls/correspondence within forty-eight hours of that time;
- (f) Defendant shall pay all Membership dues and Client Security Fund assessments and comply with all Continuing Legal Education requirements;
- (g) On January 31, and April 30, October 31, and December 31 each year the stay is in effect, Defendant shall submit an affidavit to the Office of Counsel indicating his employment status and/or the nature of his employment.
- (h) If at any time during the period of the stay Defendant is engaged in the private practice of law, Defendant shall arrange for an active member in good standing of the North Carolina State Bar who practices in the county of his practice to serve as his practice monitor. Before Defendant resumes practicing any form of legal work, he must supply the Office of Counsel with a letter from the approved monitoring attorney confirming his or her agreement to: (a) meet with Defendant monthly to review his cases; (b) provide supervision to ensure that Defendant timely and completely handles client matters; and (c) provide written quarterly reports of this supervision to the Office of Counsel on the following dates as they occur during the duration of the stay of the suspension: January 31, April 30, July 31, and October 31. Defendant will be responsible for the cost, if any, charged by the monitor for this supervision.
- (i) Defendant shall meet at least once monthly with his practice monitor, to whom he shall report the status of all current client matters and provide copies of any documents filed on behalf of current clients. Defendant shall provide any additional information the practice monitor deems reasonably necessary to ensure that Defendant is timely handling all client matters in accord with the requirements of the Rules of Professional Conduct, the North Carolina Rules of

Civil Procedure, and the North Carolina General Rules of Practice, and is in compliance with the trust accounting rules;

- (j) Defendant shall ensure that the practice monitor timely submits to the Office of Counsel a written report by January 31, April 30, July 31, and October 31 describing his or her meetings with Defendant and opinion of whether Defendant is in compliance with the terms of this Order and the Rules of Professional Conduct;
- (k) Should the need arise to find a replacement practice monitor during the stay of Defendant's suspension, Defendant shall promptly provide to the Office of Counsel the name of a proposed alternative practice monitor. Defendant's failure to promptly provide the Office of Counsel the name of an alternative practice monitor will not excuse any failure to meet monthly with an approved practice monitor and will not excuse failure of an approved practice monitor to provide quarterly reports to the Office of Counsel;
- (l) Defendant shall not violate the Rules of Professional Conduct or the laws of the United States or of any state or local government during his suspension, misdemeanor traffic violations excepted;
- (m) Defendant shall keep the North Carolina State Bar Membership Department advised of his current business and home addresses and shall notify the Bar of any change in address within ten days of such change;
- (n) Defendant shall respond to all communications from the North Carolina State Bar, including communications from the Attorney Client Assistance Program, within thirty days of receipt or by the deadline stated in the communication, whichever is sooner, and shall participate in good faith in the State Bar's fee dispute resolution process for any petition of which he receives notice after the effective date of this Order;
- (o) Defendant shall promptly accept service of all certified mail that is sent to him from the State Bar;
- (p) Defendant shall timely comply with all State Bar Membership and Continuing Legal Education requirements; and
- (q) Defendant shall pay all costs and administrative fees of this action within thirty days of the date the Order of Discipline is served on him or his counsel.

3. Failure of the Defendant to timely submit any document required by this Order shall be sufficient grounds to lift the stay and activate the suspension.

4. If during the stay of the suspension Defendant fails to comply with any one or more of the conditions stated above, the stay of the suspension of his law license may be lifted as provided in § .0114(x) of the North Carolina State Bar Discipline and Disability Rules.

5. If the stay of the suspension is lifted and the suspension is activated for any reason, Defendant may apply for reinstatement after serving the activated suspension by filing a petition pursuant to § .0125 of the North Carolina State Bar Discipline and Disability Rules demonstrating compliance with the requirements therein as well as the following requirements by clear, cogent, and convincing evidence:

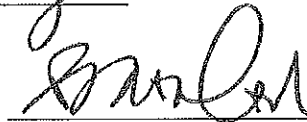
- (a) Defendant properly wound down his law practice and complied with the terms of 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0124 of the State Bar Discipline & Disability Rules;
- (b) Defendant kept the Membership Department of the State Bar informed of his current information for his physical address (not a Post Office box), telephone number, and e-mail address throughout the period of his suspension;
- (c) Defendant accepted all certified mail from the State Bar sent to the address on record with the Membership Department of the North Carolina State Bar throughout the period of the suspension;
- (d) Defendant responded to all letters of notice and requests for information from the North Carolina State Bar by the deadline stated therein with full and complete responses and all requested documentation throughout the period of his suspension;
- (e) Defendant has come into compliance with any outstanding CLE or membership obligations at the time of the filing of his petition for reinstatement;
- (f) Defendant did not violate any of the Rules of Professional Conduct in effect during the period of the suspension, misdemeanor traffic violations excepted;
- (g) Defendant did not violate any laws of the State of North Carolina or of the United States during the period of the suspension; and
- (h) Defendant paid all costs and fees of this proceeding as assessed by the Secretary by the date of the filing of his petition for reinstatement.

6. Unless Defendant's obligations under this Order are modified by further order of the DHC, Defendant's obligations under this Order end three years from the effective date of the Order provided there are no motions or show cause proceedings pending alleging lack of compliance with the conditions of the stay of the suspension. Pursuant to § .0114(x) of the North Carolina Discipline and Disability Rules, the DHC retains jurisdiction until all conditions of the stay of the suspension have been met. If a motion or show cause proceeding alleging lack of compliance with the conditions for the stay of the suspension is pending when the period of the

stay of the suspension would otherwise have terminated, the DHC retains the jurisdiction and ability to lift the stay of the suspension and activate the one year suspension in whole or in part if it finds that any of the conditions of the stay have not been met. The stay of the suspension and Defendant's obligation to comply with the conditions for the stay will continue until resolution of any such pending motion or show cause proceeding.

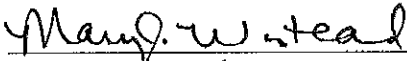
Signed by the undersigned Hearing Panel Chair with the consent of the other Hearing Panel members.

This the 17<sup>th</sup> day of February 2016.

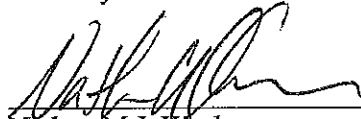


Fred M. Morelock, Chair  
Disciplinary Hearing Panel

Agreed and consented to by:



Mary D. Winstead  
Attorney for Plaintiff



Nathan M.J. Workman  
Defendant

stay of the suspension would otherwise have terminated, the DHC retains the jurisdiction and ability to lift the stay of the suspension and activate the one year suspension in whole or in part if it finds that any of the conditions of the stay have not been met. The stay of the suspension and Defendant's obligation to comply with the conditions for the stay will continue until resolution of any such pending motion or show cause proceeding.

Signed by the undersigned Hearing Panel Chair with the consent of the other Hearing Panel members,

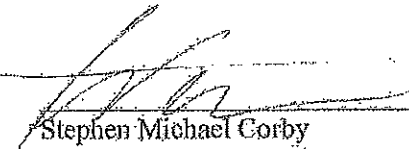
This the \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Fred M. Morelock, Chair  
Disciplinary Hearing Panel

Agreed and consented to by:

\_\_\_\_\_  
Mary D. Winstead  
Attorney for Plaintiff

\_\_\_\_\_  
Nathan M.J. Workman  
Defendant

  
\_\_\_\_\_  
Stephen Michael Corby  
Attorney for Defendant