

STATE OF NORTH CAROLINA

WAKE COUNTY

THE NORTH CAROLINA STATE BAR,

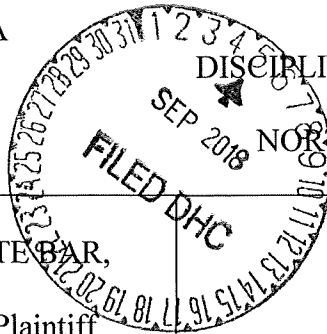
Plaintiff

v.

CARSON W. FREEMAN, Attorney,

Defendant

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
17 DHC 35



ORDER OF DISCIPLINE

THIS MATTER was heard on 2 and 3 August 2018 before a Hearing Panel of the Disciplinary Hearing Commission composed of Beverly T. Beal, Chair, and members Stephanie N. Davis and Christopher R. Bruffey. Jennifer A. Porter and Joshua T. Walthall represented Plaintiff, the North Carolina State Bar. Defendant, Carson W. Freeman, was present and represented by Alan M. Schneider.

Based upon the pleadings, the stipulated facts, and the evidence admitted at the hearing, the Hearing Panel hereby finds by clear, cogent, and convincing evidence the following

FINDINGS OF FACT

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

2. Defendant, Carson W. Freeman ("Freeman"), was admitted to the North Carolina State Bar in 2012, 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, Freeman was engaged in the practice of law in the State of North Carolina and maintained a law office in Charlotte, Mecklenburg County, North Carolina.

4. Freeman was properly served with process, a hearing in this matter was set, and the matter came before the hearing panel with due notice to all parties

5. From March 2014 through February 2016, Freeman maintained an attorney trust account at Wells Fargo, account number ending in digits 0615 ("the trust account").

6. Freeman maintained a paper client file for each client.
7. Freeman kept notes in her clients' files regarding attorney's fees and costs for the client.
8. In her traffic cases, Freeman reviewed her client's file in preparation for going to court for the client and brought the client file with her to court.

First Claim for Relief (P. Gallo)

9. In April 2014, Freeman undertook representation of client P. Gallo in his traffic case.
10. P. Gallo had been charged with speeding in a work zone.
11. In her letter to P. Gallo dated April 1, 2014, Freeman stated that the total cost of her legal fees in P. Gallo's case would be \$300.00.
12. Freeman's April 1, 2014 letter to P. Gallo stated he would also have to submit payment for court costs and fines.
13. P. Gallo signed Freeman's April 1, 2014 letter on or about April 8, 2014 and returned the letter to Freeman.
14. Freeman's goals in her representation of P. Gallo included resolving his case with a plea to a lesser violation that did not include the work zone violation.
15. Freeman sent P. Gallo an e-mail dated April 11, 2014 in which she advised P. Gallo that in North Carolina work zone speeding violations normally carry an additional fine of \$250.00, that she would have him include that fine in the total payment she had him send her, and she would "return it to [him] in the form of a reimbursement check if it is not mandated by the court that [he] pay it."
16. On April 18, 2014, Freeman received \$800.00 from P. Gallo, which she deposited into the trust account.
17. The \$800.00 from P. Gallo included her \$300.00 attorney's fee as well as the money for the anticipated court costs and fines.
18. On April 29, 2014, Freeman resolved P. Gallo's traffic case.
19. The court costs and fines assessed totaled \$263.00.
20. P. Gallo was not found responsible for a work zone violation and no work zone fine was assessed against him by the court.
21. After payment of P. Gallo's \$263.00 in court costs and fines and Freeman's \$300.00 attorney's fee, \$237.00 remained of the \$800.00 deposited for P. Gallo in the trust account.

22. The balance of the \$237.00 belonged to P. Gallo and should have been refunded to P. Gallo by a reimbursement check from the trust account, as referenced in Freeman's April 11, 2014 e-mail to P. Gallo.

23. Freeman did not refund \$237.00 from the trust account to P. Gallo.

24. Instead, Freeman disbursed P. Gallo's \$237.00 to herself from the trust account through cash withdrawals, transfers, and disbursements of funds to herself or for her benefit from the trust account to which she was not entitled.

25. Freeman failed to refund P. Gallo his \$237.00 and failed to maintain P. Gallo's funds in the trust account for P. Gallo unless and until those funds were either properly utilized for P. Gallo or refunded to P. Gallo, thereby failing to properly maintain and disburse entrusted funds and improperly disbursing entrusted funds for her benefit.

26. By failing to issue a refund to P. Gallo for \$237.00 when she should have refunded the \$237.00 to P. Gallo and by disbursing P. Gallo's \$237.00 for her personal use or benefit, Freeman knowingly and willfully misappropriated P. Gallo's \$237.00.

27. Freeman did not provide P. Gallo with a written accounting of all receipts and disbursements of his trust funds upon the complete disbursement of his funds from the trust account.

28. Freeman failed to provide P. Gallo with a written accounting of all receipts and disbursements of his trust funds upon the complete disbursement of his funds from the trust account, thereby failing to provide a required accounting to her client.

Second Claim for Relief (D. Connell)

29. In about August 2014, Freeman undertook representation of client D. Connell in his traffic case.

30. D. Connell had been charged with speeding in a work zone.

31. Freeman notified D. Connell that her legal fee for the representation would be \$350.00.

32. Freeman required D. Connell to provide her with \$838.00, which included \$350.00 for her legal fee, \$250.00 for the anticipated work zone fine, \$188.00 for the anticipated court costs, and \$50.00 for the anticipated speeding fine.

33. Freeman's goals in her representation of D. Connell included resolving his case with a plea to a lesser violation that did not include the work zone violation.

34. Freeman indicated to D. Connell that if she could resolve his case without any assessment of the work zone fine, she would reimburse the \$250.00 work zone fine to him.

35. On about August 15, 2014, Freeman received \$838.00 from D. Connell, which she deposited into the trust account.

36. On December 19, 2014, Freeman resolved D. Connell's traffic case.

37. The court costs and fines assessed totaled \$213.00.

38. D. Connell was not found responsible for a work zone violation and no work zone fine was assessed against him by the court.

39. Additionally, the speeding fine assessed against D. Connell was \$25.00, rather than the anticipated \$50.00.

40. After payment of \$213.00 for court costs and fines and \$350.00 for Freeman's legal fee, a balance of \$275.00 remained of the \$838.00 deposited into the trust account for D. Connell.

41. The balance of \$275.00 belonged to D. Connell and should have been refunded to D. Connell from the trust account.

42. On January 7, 2015, Freeman e-mailed D. Connell a letter in which she notified him of the disposition of his case and itemized the court costs and fines paid in his case.

43. The letter Freeman e-mailed D. Connell on January 7, 2015 did not provide D. Connell with an accounting of all receipts and disbursements of his entrusted funds or discuss refunding him the \$275.00 left of the funds he had provided for anticipated court costs and fines.

44. D. Connell e-mailed Freeman on January 10, 2015 and asked in his e-mail if he was owed any money from the funds he had provided Freeman for his case.

45. Freeman did not respond to D. Connell's January 10, 2015 e-mail.

46. Freeman did not provide D. Connell with an accounting of all receipts and disbursements of his entrusted funds or discuss refunding him the \$275.00 left of the funds he had provided for anticipated court costs and fines.

47. Freeman did not provide D. Connell with an accounting of all receipts and disbursements of his entrusted funds in response to his question about the status of his funds.

48. Freeman failed to provide D. Connell with a written accounting of all receipts and disbursements of his trust funds upon the complete disbursement of his funds from the trust account or in response to his question concerning the status of his funds, thereby failing to provide a required accounting to her client.

49. Freeman did not refund \$275.00 from the trust account to D. Connell.

50. Freeman disbursed D. Connell's \$275.00 to herself from the trust account through cash withdrawals, transfers, and disbursements of funds to herself or for her benefit from the trust account to which she was not entitled.

51. Freeman failed to refund D. Connell his \$275.00 and failed to maintain D. Connell's funds in the trust account for D. Connell unless and until those funds were properly utilized for D. Connell or refunded to D. Connell, thereby failing to properly maintain and disburse entrusted funds and improperly disbursing entrusted funds for her benefit.

52. By failing to issue a refund to D. Connell for \$275.00 when she should have refunded the \$275.00 to D. Connell and by disbursing D. Connell's \$275.00 for her personal use or benefit, Freeman knowingly and willfully misappropriated D. Connell's \$275.00.

Third Claim for Relief (B. Cypher)

53. In about August 2014, Freeman undertook representation of client B. Cypher in his traffic case.

54. B. Cypher had been charged with speeding in a work zone and with reckless driving.

55. In her letter to B. Cypher dated August 15, 2014, Freeman stated that the total cost of her legal fees in B. Cypher's case would be \$500.00.

56. Freeman's August 15, 2014 letter to B. Cypher stated that he would also have to submit payment for court costs and fines.

57. B. Cypher signed Freeman's August 15, 2014 letter on or about August 19, 2014 and returned the letter to Freeman.

58. Freeman sent B. Cypher an e-mail dated September 3, 2014 in which she stated that B. Cypher would need to provide her with \$990.00 to cover \$500.00 for her legal fee, \$250.00 for the anticipated work zone fine, \$190.00 for the anticipated court costs, and \$50.00 for the anticipated speeding fine.

59. In the September 3, 2014 e-mail, Freeman advised B. Cypher that she would try to negotiate a reduction to a regular traffic zone speeding charge to save him the \$250.00 work zone fine.

60. In the September 3, 2014 e-mail, Freeman advised B. Cypher that if she was able to eliminate the work zone charge, she would reimburse the \$250.00 to him after his court date.

61. On about September 10, 2014, Freeman received \$990.00 from B. Cypher, which she deposited into the trust account.

62. The \$990.00 from B. Cypher included Freeman's \$500.00 attorney's fee as well as the money for the anticipated court costs and fines.

63. On December 19, 2014, Freeman resolved B. Cypher's traffic case.

64. The court costs and fines assessed totaled \$215.00.

65. B. Cypher was not found responsible for a work zone violation and no work zone fine was assessed against him by the court.

66. Additionally, the speeding fine assessed against B. Cypher was \$25.00, rather than the anticipated \$50.00.

67. After payment of \$215.00 for court costs and fines and \$500.00 for Freeman's legal fee, a balance of \$275.00 remained of the \$990.00 deposited into the trust account for B. Cypher.

68. The balance of \$275.00 belonged to B. Cypher and should have been refunded to B. Cypher from the trust account.

69. Freeman provided B. Cypher with a letter dated January 5, 2015 in which she notified him of the disposition of his case and itemized the court costs and fines paid in his case.

70. The letter Freeman provided B. Cypher dated January 5, 2015 did not provide B. Cypher with an accounting of all receipts and disbursements of his entrusted funds or discuss refunding him the \$275.00 left of the funds he had provided for anticipated court costs and fines.

71. Freeman did not provide B. Cypher with an accounting of all receipts and disbursements of his entrusted funds or discuss refunding him the \$275.00 left of the funds he had provided for anticipated court costs and fines.

72. Freeman failed to provide B. Cypher with a written account of all receipts and disbursements of his trust funds upon the complete disbursement of his funds from the trust account, thereby failing to provide a required accounting to her client.

73. Freeman did not refund \$275.00 from the trust account to B. Cypher.

74. Freeman disbursed B. Cypher's \$275.00 to herself from the trust account through cash withdrawals, transfers, and disbursements of funds to herself or for her benefit from the trust account to which she was not entitled.

75. Freeman failed to refund B. Cypher his \$275.00 and failed to maintain B. Cypher's funds in the trust account for B. Cypher unless and until those funds were properly utilized for B. Cypher or refunded to B. Cypher, thereby failing to properly maintain and disburse entrusted funds and improperly disbursing entrusted funds for her benefit.

76. By failing to issue a refund to B. Cypher for \$275.00 when she should have refunded the \$275.00 to B. Cypher and by disbursing B. Cypher's \$275.00 for her personal use or benefit, Freeman knowingly and willfully misappropriated B. Cypher's \$275.00.

Fourth Claim for Relief (E. Shoemaker)

77. In about October 2014, Freeman undertook representation of client E. Shoemaker in her traffic case.

78. E. Shoemaker's charges included a failure to appear.
79. Freeman notified E. Shoemaker that her legal fee for the representation would be \$325.00.
80. Freeman required E. Shoemaker to provide her with \$525.00, which included \$325.00 for her legal fee and \$200.00 for the anticipated fine for the failure to appear.
81. Freeman's goals in her representation of E. Shoemaker included having the failure to appear stricken and the underlying charge dismissed.
82. Freeman indicated to E. Shoemaker that if she could get the failure to appear stricken, she would refund the money for the anticipated failure to appear fee back to E. Shoemaker.
83. On about October 30, 2014, Freeman received \$525.00 from E. Shoemaker, which she deposited into the trust account.
84. On October 30, 2014, Freeman collected her legal fee in E. Shoemaker's case by transferring \$325.00 from the trust account to her operating account.
85. On December 19, 2014, Freeman resolved E. Shoemaker's traffic case. The failure to appear was stricken and the underlying charge was dismissed.
86. Because the underlying charge was dismissed and the failure to appear was stricken, no money needed to be paid to the court in E. Shoemaker's case.
87. The \$200.00 remaining of the funds E. Shoemaker had provided to Freeman belonged to E. Shoemaker and should have been refunded to E. Shoemaker from the trust account.
88. Freeman did not provide E. Shoemaker with an accounting of all receipts and disbursements of her entrusted funds or discuss refunding her the \$200.00 left of the funds she had provided for the anticipated failure to appear fine.
89. E. Shoemaker e-mailed Freeman and asked if she was owed any money from the funds she had provided Freeman for her case.
90. Freeman did not respond to E. Shoemaker's e-mail.
91. Freeman did not provide E. Shoemaker with an accounting of all receipts and disbursements of her entrusted funds in response to her question about the status of her funds.
92. Freeman failed to provide E. Shoemaker with a written accounting of all receipts and disbursements of the trust funds upon the complete disbursement of her funds from the trust account or in response to her question concerning the status of her funds, thereby failing to provide a required accounting to her client.
93. Freeman did not refund \$200.00 from the trust account to E. Shoemaker.

94. Freeman disbursed E. Shoemaker's \$200.00 to herself from the trust account through cash withdrawals, transfers, and disbursements of funds to herself or for her benefit from the trust account to which she was not entitled.

95. Freeman failed to refund E. Shoemaker her \$200.00 and failed to maintain E. Shoemaker's funds in the trust account for E. Shoemaker unless and until those funds were properly utilized for E. Shoemaker or refunded to E. Shoemaker, thereby failing to properly maintain and disburse entrusted funds and improperly disbursing entrusted funds for her benefit.

96. By failing to issue a refund to E. Shoemaker for \$200.00 when she should have refunded the \$200.00 to E. Shoemaker and by disbursing E. Shoemaker's \$200.00 for her personal use or benefit, Freeman knowingly and willfully misappropriated E. Shoemaker's \$200.00.

Fifth Claim for Relief (From opening of trust account on March 14, 2014 through zero balance on October 5, 2015)

97. On October 5, 2015, Freeman brought the balance of the trust account to \$0.00.

98. From the opening of the trust account in March 2014 through the zero balance on October 5, 2015, Freeman electronically transferred funds from the trust account to her operating account.

99. Freeman had the ability in the transfer process to identify the client from whose funds in the trust account she was purportedly disbursing funds, resulting in a notation on the trust account bank statement.

100. On occasion, Freeman made transfers from the trust account to her operating account for which she did not identify any client(s) in the transfer process and with no association with any apparent client purpose or legitimate client disbursement, including as follows:

- a. On June 18, 2014, Freeman transferred \$300.00 from the trust account to her operating account.
- b. On August 4, 2014, Freeman transferred \$100.00 from the trust account to her operating account.
- c. On July 29, 2014, Freeman transferred \$650.00 from the trust account to her operating account, with no apparent client purpose or entitlement to \$60.00 of the transferred funds.
- d. On October 5, 2015, Freeman transferred \$10.71 from the trust account to her operating account, with no apparent client purpose or entitlement to \$7.11 of the transferred funds.

101. From the opening of the trust account in March 2014 through October 5, 2015, Freeman routinely made cash withdrawals from the trust account by withdrawal authorizations she presented at the bank.

102. Freeman had the ability on the withdrawal authorization form used to make these cash withdrawals to identify the client from whose funds in the trust account she was purportedly disbursing funds.

103. For all except one withdrawal, Freeman did not identify the client(s) from whose funds in the trust account she was purportedly disbursing funds on the withdrawal authorization forms.

104. On several occasions between March 14, 2014 and October 5, 2015, Freeman withdrew funds from the trust account with no identification of the client from whose funds in the trust account she was purportedly disbursing the funds and with no association with any apparent client purpose, including as follows:

- a. Freeman withdrew \$400.00 from the trust account on May 7, 2014 by withdrawal authorization numbered 1392.
- b. Freeman withdrew \$187.00 withdrawn from the trust account on March 9, 2015 by authorization numbered 9169.
- c. Freeman withdrew \$90.00 from the trust account on September 3, 2015 by authorization numbered 8821.

105. On certain occasions, Freeman withdrew funds from the trust account with no identification of the client from whose funds in the trust account she was disbursing the funds but with possible associations with payments made for court costs and fines for traffic case clients.

106. Freeman could have withdrawn only the exact amount needed to pay the costs and fines.

107. In certain instances, Freeman withdrew only the specific amount needed to pay a client's court costs and fines.

108. Routinely, however, Freeman withdrew greater amounts than needed to pay court costs and fines for clients, including as follows:

- a. Freeman withdrew \$300.00 on April 21, 2014 by withdrawal authorization numbered 4071.
 - i. Freeman tendered \$300.00 cash to the Gaston County Clerk of Court on April 21, 2014 to pay \$288.00 in court costs and fines for client G. Hall.
 - ii. Freeman retained the remaining \$12.00 for her personal use.
- b. Freeman withdrew \$300.00 on April 29, 2014 by withdrawal authorization numbered 8259.
 - i. Freeman tendered \$280.00 cash to the Cabarrus County Clerk of Court on April 29, 2014 to pay \$263.00 in court costs and fines for client P. Gallo.

- ii. Freeman retained the remaining \$37.00 for her personal use.
- c. Freeman withdrew \$250.00 on August 13, 2014 by withdrawal authorization numbered 9495.
 - i. Freeman tendered \$240.00 cash to the Union County Clerk of Court on August 13, 2014 to pay \$238.00 in court costs and fines for client Q. Seats.
 - ii. Freeman retained the remaining \$12.00 for her personal use.
- d. Freeman withdrew \$480.00 on August 15, 2014 by withdrawal authorization numbered 9102.
 - i. Freeman tendered \$220.00 to the Cabarrus County Clerk of Court on August 15, 2014 to pay \$213.00 in court costs and fines for client J. Holsinger.
 - ii. Freeman tendered \$220.00 to the Cabarrus County Clerk of Court on August 15, 2014 to pay \$213.00 in court costs and fines for client V. Yaple.
 - iii. Freeman retained the remaining \$54.00 for her personal use.
- e. Freeman withdrew \$400.00 on September 10, 2014 by withdrawal authorization numbered 7475.
 - i. Freeman tendered \$400.00 cash to the Cleveland County Clerk of Court on September 10, 2014 to pay \$390.00 in court costs and fines for client G. Best.
 - ii. Freeman retained the remaining \$10.00 for her personal use.
- f. Freeman withdrew \$730.00 on September 19, 2014 by withdrawal authorization numbered 2298.
 - i. Freeman tendered \$300.00 cash to the Cabarrus County Clerk of Court on September 19, 2014 to pay \$263.00 for court costs and fines for client N. Horvath.
 - ii. Freeman tendered \$300.00 cash to the Cabarrus County Clerk of Court on September 19, 2014 to pay \$263.00 for court costs and fines for client A. Goins, although client A. Goins had only had a balance of \$240.00 in the trust account at that time.

- iii. Freeman used \$23.00 of funds from the trust account that did not belong to A. Goins to pay A. Goins' court costs and fines.
- iv. Freeman retained the remaining \$204.00 for her personal use.
- g. Freeman withdrew \$280.00 on November 7, 2014 by withdrawal authorization numbered 8574.
 - i. Freeman tendered \$280.00 cash to the Cabarrus County Clerk of Court on November 7, 2014 to pay \$263.00 in court costs and fines for client R. Davis.
 - ii. Freeman retained the remaining \$17.00 for her personal use.
- h. Freeman withdrew \$315.00 on November 7, 2014 by withdrawal authorization numbered 8575.
 - i. On November 7, 2014, Freeman purchased a bank check for \$310.00 which she tendered to the Rowan County Clerk of Court on November 13, 2014 to pay \$310.00 for court costs and fines for client M. Ford.
 - ii. Freeman retained the remaining \$5.00 for her personal use.
- i. Freeman withdrew \$924.00 on December 22, 2014 by withdrawal authorization numbered 7209.
 - i. On December 22, 2014, Freeman tendered to the Cabarrus County Clerk of Court \$213.00 cash to pay \$213.00 in court costs and fines for client D. Connell.
 - ii. On December 22, 2014, Freeman tendered to the Cabarrus County Clerk of Court \$215.00 cash to pay \$215.00 in court costs and fines for client B. Cypher.
 - iii. On December 22, 2014, Freeman tendered to the Cabarrus County Clerk of Court \$463.00 cash to pay \$463.00 in court costs and fines for client C. McDaniel although C. McDaniel had only had a balance of \$440.00 in the trust account at that time.
 - iv. Freeman used \$23.00 of funds from the trust account that did not belong to C. McDaniel to pay C. McDaniel's court costs and fines.
 - v. Freeman retained the remaining \$33.00 for her personal use.
- j. Freeman withdrew \$215.00 on March 10, 2015 by withdrawal authorization numbered 7321.

- i. Freeman tendered \$215.00 cash to the Stanly County Clerk of Court on March 10, 2015 to pay \$213.00 in court costs and fines for client D. Narvaez and a \$.25 copy cost.
 - ii. Freeman retained the remaining \$1.75 for her personal use.
- k. Freeman withdrew \$240.00 on March 11, 2015 by withdrawal authorization numbered 5764.
 - i. Freeman tendered \$220.00 cash to the Cleveland County Clerk of Court on March 11, 2015 to pay \$203.00 in court costs and fines for client Z. Xhuo.
 - ii. Freeman retained the remaining \$37.00 for her personal use.
- l. Freeman withdrew \$308.00 on April 15, 2015 by withdrawal authorization numbered 2624.
 - i. Freeman tendered \$300.00 cash to the Cabarrus County Clerk of Court on April 15, 2015 to pay \$288.00 in court costs and fines for client A. Saleh although A. Saleh had only had a balance of \$240.00 in the trust account at that time.
 - ii. Freeman used \$48.00 of funds from the trust account that did not belong to A. Saleh to pay A. Saleh's court costs and fines.
 - iii. Freeman retained the remaining \$20.00 for her personal use.
- m. Freeman withdrew \$1,390.00 on August 5, 2015 by withdrawal authorization numbered 6824.
 - i. Freeman tendered \$205.00 cash to the Mecklenburg County Clerk of Court on August 5, 2015 to pay \$203.00 in court costs and fines for client E. Aguilar.
 - ii. Freeman tendered \$300.00 cash to the Mecklenburg County Clerk of Court on August 5, 2015 to pay \$263.00 in court costs and fines for client D. Bianculli although D. Bianculli only had a balance of \$261.25 in the trust account at that time.
 - iii. Freeman used \$1.75 of funds from the trust account that did not belong to D. Bianculli to pay D. Bianculli's court costs and fines.
 - iv. Freeman tendered \$220.00 cash to the Mecklenburg County Clerk of Court on August 5, 2015 to pay \$218.00 in court costs and fines for client T. Hairston although Freeman had not collected or deposited into the trust

account any funds for T. Hairston's anticipated court costs and fines and had only \$0.18 in the trust account for T. Hairston at that time.

- v. Freeman used \$217.82 of funds from the trust account that did not belong to T. Hairston to pay T. Hairston's court costs and fines.
 - vi. Freeman tendered \$203.00 cash to the Mecklenburg County Clerk of Court on August 5, 2015 to pay \$203.00 in court costs and fines for client T. Hearne.
 - vii. Freeman tendered \$210.00 cash to the Mecklenburg County Clerk of Court on August 5, 2015 to pay \$203.00 in court costs and fines for client D. Livingston although Freeman had not collected or deposited into the trust account any funds for D. Livingston's anticipated court costs and fines and had no money in the trust account for D. Livingston at that time.
 - viii. Freeman used \$203.00 of funds from the trust account that did not belong to D. Livingston to pay D. Livingston's court costs and fines.
 - ix. Freeman tendered \$265.00 cash to the Mecklenburg County Clerk of Court on August 5, 2015 to pay \$263.00 in court costs and fines for client B. Wahab.
 - x. Freeman retained the remaining \$37.00 for her personal use.
- n. Freeman withdrew \$473.00 on September 4, 2015 by withdrawal authorization numbered 3397.
- i. Freeman tendered \$300.00 cash to the Mecklenburg County Clerk of Court on September 4, 2015 to pay \$263.00 in court costs and fines for client A. Harris-House.
 - ii. Freeman tendered \$203.00 cash to the Mecklenburg County Clerk of Court on September 4, 2015 to pay \$203.00 in court costs and fines for client W. Khalifa.
 - iii. Freeman retained the remaining \$7.00 for her personal use.

109. Freeman represented L. Melendez in a traffic case in October 2014.

110. Freeman communicated to L. Melendez that her legal fee would be \$350.00 and that he would also have to provide her with \$263.00 for court costs and fines, totaling \$613.00.

111. L. Melendez provided Freeman with \$613.00, which she deposited into the trust account on October 23, 2014.

112. When Freeman resolved L. Melendez's case on October 23, 2014, however, the court costs and fines only totaled \$248.00.

113. The \$15.00 remaining from the estimated court costs L. Melendez had provided to Freeman belonged to L. Melendez.

114. Freeman transferred the entire \$613.00 from the trust account to her operating account after paying L. Melendez's court costs and fines and did not refund the unused estimated court costs to L. Melendez.

115. On several occasions between March 14, 2014 and October 5, 2015, Freeman disbursed funds to C. Wayne Heasley from the trust account with no identification of any client from whose funds in the trust account she was disbursing the funds and for the apparent purpose of satisfying Freeman's personal business obligations to attorney C. Wayne Heasley ("Heasley"), including as follows:

- a. Check 1042 in the amount of \$3,000.00 dated December 11, 2014 made payable to Heasley and Soto Attorneys at Law, with a note in the memo of the check of "Office Expense 9/14 – 11/14."
- b. Check 1048 in the amount of \$943.50 dated April 2, 2015 made payable to C. Wayne Heasley, Attorney, with a note in the memo line of the check of "legal fee portion – Mecklenb March."
- c. Check 1051 in the amount of \$725.00 dated June 4, 2015 made payable to Wayne Heasley, Attorney at Law, PLLC, with a note in the memo line of the check of "traffic – April – May."
- d. Check 1049 in the amount of \$812.50 dated August 19, 2015 made payable to C. Wayne Heasley, Attorney at Law, PLLC, with no note in the memo line.

116. Freeman did not have sufficient funds in her operating account to have made the above listed payments to Heasley from her operating account.

117. In about May 2015, Freeman undertook representation of client J. Phillips in her DSS case.

118. On June 19, 2015, Freeman deposited funds for J. Phillips' legal fees in the amount of \$3,100.00 into the trust account.

119. Between June 30, 2015 and August 4, 2015, Freeman made six transfers from the trust account to her operating account that are labeled on the bank statements as consisting of legal fees for J. Phillips.

120. After these six transfers, J. Phillips had no remaining funds in Freeman's trust account.

121. Subsequently, by trust account check number 1052 dated August 19, 2015, Freeman disbursed \$1,200.00 from the trust account to J. Phillips to refund part of J. Phillips' retainer to J. Phillips.

122. On August 19, 2015, however, Freeman did not have \$1,200.00 in the trust account for J. Phillips.

123. Freeman represented to the State Bar that she intended to disburse the \$1,200.00 to the client from her operating account.

124. Freeman did not have \$1,200.00 in her operating account on August 19, 2015.

125. The balance of Freeman's operating account was under \$1,000.00 from the conclusion of all transactions on August 11, 2015 through the conclusion of all transactions on August 27, 2015.

126. On the days immediately surrounding the August 19, 2015 date of the check, the balances of Freeman's operating account were as follows:

- a. The balance of her operating account at the conclusion of all transactions on August 18, 2015 was \$116.84.
- b. The balance of her operating account at the conclusion of all transactions on August 19, 2015 was \$80.12.
- c. The balance of her operating account at the conclusion of all transactions on August 20, 2015 was \$25.58.

127. On September 15, 2015, Freeman transferred \$150.00 from the trust account to her operating account that she identified in the bank documentation as reimbursement of advanced court costs for client D. Livingston.

128. Freeman had not advanced any court costs for D. Livingston.

129. Freeman paid \$203.00 in court costs for D. Livingston on August 5, 2015 with funds withdrawn from the trust account by withdrawal number 6824.

130. Freeman had not deposited any funds for court costs for D. Livingston into the trust account.

131. Freeman was not entitled to the \$150.00 she transferred from the trust account to the operating account on September 15, 2015.

132. The balance of Freeman's operating account at the conclusion of all transactions on September 14, 2015 was \$36.01.

133. In addition to P. Gallo's \$237.00, D. Connell's \$275.00, B. Cypher's \$275.00, and E. Shoemaker's \$200.00, discussed in the First through Fourth Claims for Relief above, Freeman

should have had the following funds in the trust account for at least the following additional clients as of October 5, 2015:

- a. \$50.00 for client J. Holsinger
- b. \$50.00 for client G. Best
- c. \$30.00 for client M. Jewsome
- d. \$56.04 for client J. Stroupe
- e. \$60.00 for client E. Aguilar
- f. \$59.44 for client T. Hearne
- g. \$263.00 for client C. Kroscher

134. Freeman did not maintain the funds referenced in the preceding paragraph in trust for her clients.

135. Freeman made cash withdrawals from the trust account with no identification of the client(s) to whom the funds belonged on the withdrawal authorization, thereby disbursing funds without creating and maintaining the required record for the disbursement.

136. Freeman transferred funds from the trust account to her operating account with no identification of the client(s) to whom the funds belonged on the bank statement or on any other written or electronic record of the transfer or on any instruction or authorization for the transfer, thereby disbursing funds without creating and maintaining the required record for the disbursement.

137. Freeman wrote trust account checks disbursing funds from the trust account with no identification on the check of the client(s) from whose balance(s) in the trust account the funds were being disbursed, thereby disbursing funds without creating and maintaining the required record for the disbursement.

138. Freeman, through unattributed transfers and withdrawals, through withdrawals from which she retained funds, and by disbursements made for her benefit, failed to properly maintain and disburse entrusted funds and improperly disbursed entrusted funds for her benefit.

139. Freeman used entrusted funds obtained by unattributed withdrawals from the trust account for the benefit of clients who were not entitled to those entrusted funds, thereby failing to properly maintain and disburse entrusted funds and improperly disbursing entrusted funds.

140. Through the above-described transfers, withdrawals, and disbursements, Freeman disbursed to herself or for her benefit client funds to which she was not entitled from the trust account.

141. Through the above-described transfers, withdrawals, and disbursements, Freeman disbursed for the benefit of clients entrusted funds to which those clients were not entitled from the trust account.

142. Freeman knowingly and willfully misappropriated entrusted funds she took from the trust account or used for her benefit or the benefit of others through the above-described transfers, withdrawals, and disbursements.

143. Freeman disbursed \$1,200.00 of client funds not belonging to J. Phillips to J. Phillips by trust account check 1052 dated August 19, 2015, thereby failing to properly maintain and disburse entrusted funds and improperly disbursing entrusted funds for her benefit.

144. When Freeman disbursed \$1,200.00 to J. Phillips by trust account check 1052, she knowingly and willfully misappropriated other clients' funds in the trust account.

Sixth Claim for Relief (October 15, 2015 transfer)

145. On October 15, 2015, Freeman transferred \$230.00 from the trust account to her operating account.

146. On October 15, 2015, there were no funds in the trust account to which Freeman was entitled.

147. On the October 2015 trust account bank statement, Freeman identified the October 15, 2015 \$230.00 transfer as her legal fees for client A.S. Cira, Jr. ("Cira").

148. Freeman did not yet have any money in the trust account for Cira when she made the \$230.00 transfer to her operating account on October 15, 2015.

149. On October 15, 2015, Freeman processed a credit card deposit from Cira through Square, Inc. credit card processing services, consisting of funds for the court costs and fines and for her attorney's fee.

150. The deposit of Cira's funds was not credited to Freeman's trust account until the following day, October 16, 2015.

151. Freeman knew deposits made using Square, Inc.'s credit card processing service were routinely not credited to the trust account until the following business day.

152. On October 15, 2015, Freeman was preparing to travel the following day to New York City for a friend's wedding.

153. On October 15, 2015, a total of \$255.33 was paid from Freeman's operating account including for at least one purchase by Freeman in preparation for her trip.

154. Immediately prior to the transfer of \$230.00 from the trust account to her operating account, the balance of Freeman's operating account was \$234.30.

155. After the last operating account transaction in the bank records for October 15, 2015, the balance of Freeman's operating account was \$208.97.

156. Freeman disbursed \$230.00 to herself from the trust account to which she was not entitled, thereby failing to properly maintain and disburse entrusted funds and improperly disbursing entrusted funds for her benefit.

157. When Freeman transferred \$230.00 on October 15, 2015 from the trust account to her operating account, she knowingly and willfully misappropriated for her benefit other clients' funds in the trust account.

Seventh Claim for Relief (November 2 and 3, 2015 transfers)

158. In about October 2015, Freeman undertook representation of client T. Breault (aka T. Morley) in her divorce case.

159. In her text message with T. Breault on October 14, 2015, Freeman stated that the total cost of her legal fees in T. Breault's case would be \$500.00.

160. In this same text message, Freeman stated that T. Breault would need to provide Freeman with \$75.00 for the filing fee, \$30.00 for the cost of service by sheriff, and Freeman's legal fee of \$500.00, which totaled \$605.00. Freeman also instructed T. Breault that if she wanted to have her name changed, she should include an additional filing fee of \$10.00.

161. The amount of funds required from T. Breault consisted of \$500.00 for Freeman's legal fee and \$115.00 for costs, totaling \$615.00.

162. On October 15, 2015, Freeman processed a credit card deposit from T. Breault through Square, Inc. credit card processing services.

163. The total amount charged to T. Breault's credit card was \$615.00.

164. After deduction by Square, Inc. of processing fees in the amount of \$21.68, the remainder of \$593.32 was deposited into Freeman's trust account.

165. The deposit of \$593.32 was credited to Freeman's trust account the following day, on October 16, 2015.

166. On October 16, 2015, Freeman transferred \$480.00 from the trust account to her operating account.

167. On the October 2015 trust account bank statement, Freeman identified the \$480.00 transfer on October 16, 2015 as her legal fees for T. Breault.

168. The amount of \$480.00 reflects an adjustment of Freeman's legal fee to account for the Square, Inc. processing fee.

169. Freeman was not entitled to collect any additional legal fees from the \$593.32 deposited into the trust account for T. Breault.

170. After the collection of her legal fee, the \$113.32 in entrusted funds that remained in the trust account from T. Breault's deposit was for the anticipated filing fee and service costs for T. Breault's divorce complaint.

171. Freeman filed T. Breault's divorce complaint on November 4, 2015.

172. Freeman should have maintained T. Breault's \$113.32 in trust for T. Breault until she utilized it for the filing fee and service costs on November 4, 2015 or thereafter.

173. Freeman failed to maintain T. Breault's \$113.32 in trust for T. Breault until she utilized it for the filing fee and service costs on November 4, 2015 or thereafter, thereby failing to properly maintain and disburse entrusted funds and improperly disbursing entrusted funds for her benefit.

174. On November 2, 2015, Freeman transferred \$50.00 from the trust account to her operating account that she identified on the trust account bank statement as being disbursed from T. Breault's funds in the trust account.

175. Freeman was not entitled to the \$50.00 of T. Breault's funds that she transferred from the trust account to her operating account on November 2, 2015.

176. T. Breault's \$50.00 was not used for T. Breault's benefit, but rather was used on November 2, 2015, along with \$45.00 from Freeman's savings account, to pay for a series of personal expenditures from Freeman's operating account, at the end of which Freeman had incurred an overdraft transfer fee and had a balance of -\$7.36 in her operating account.

177. Freeman knowingly and willfully misappropriated \$50.00 of funds belonging to T. Breault on November 2, 2015.

178. On November 3, 2015, Freeman transferred \$100.00 from the trust account to her operating account.

179. Freeman did not identify, on the bank statement or on any other written or electronic record of the transfer or on any instruction or authorization for the transfer, the client who was the beneficial owner of the \$100.00 she transferred from the trust account to her operating account on November 3, 2015.

180. Freeman made a \$100.00 transfer from the trust account to her operating account with no identification, on the bank statement or on any other written or electronic record of the transfer or on any instruction or authorization for the transfer, of the client(s) to whom the funds belonged, thereby disbursing funds without creating and maintaining the required record for the disbursement.

181. Freeman has subsequently claimed that the \$100.00 she transferred on November 3, 2015 was transferred from T. Breault's funds in the trust account.

182. T. Breault did not have \$100.00 in Freeman's trust account on November 3, 2015. After the November 2, 2015 transfer of \$50.00, T. Breault's balance in Freeman's trust account was \$63.32.

183. Freeman was not entitled to the \$100.00 she transferred from the trust account to her operating account on November 3, 2015. Freeman was not entitled to T. Breault's \$63.32 or any other funds in the trust account on November 3, 2015.

184. The \$100.00 of entrusted client funds transferred to Freeman's operating account on November 3, 2015 cured the negative balance in the operating account from the prior day, paid the \$35.00 overdraft fee charged to the operating account on November 3, and paid for a few other personal expenditures from Freeman's operating account, at the end of which Freeman had a balance of \$25.13 in her operating account.

185. Freeman used the \$100.00 of entrusted client funds on November 3, 2015 to cure the negative balance in the operating account from the prior day, to pay the \$35.00 overdraft fee charged to the operating account on November 3, and to pay for a few other personal expenditures from Freeman's operating account, at the end of which Freeman had a balance of \$25.13 in her operating account.

186. Freeman knowingly and willfully misappropriated \$100.00 of client funds, \$63.32 belonging to T. Breault and \$36.38 belonging to other clients, on November 3, 2015.

Eighth Claim for Relief (November 5, 2015 transfer)

187. On November 5, 2015, Freeman transferred \$900.00 from the trust account to her operating account that she identified on the trust account bank statement as legal fees being disbursed from the funds of clients T. Breault and M. Chavez in the trust account.

188. Freeman subsequently identified \$360.00 of the \$900.00 transfer as legal fees from T. Breault.

189. On November 5, 2015, Freeman had no money in the trust account for T. Breault. T. Breault's balance in the trust account had been reduced to \$0.00 on November 3, 2015 by the \$100.00 transfer on November 3, 2015 discussed above.

190. Furthermore, Freeman knew on November 5, 2015 that she was not due \$360.00 for legal fees in T. Breault's case.

191. Freeman's legal fee for the representation of T. Breault was not \$360.00, but rather was \$500.00, as Freeman communicated to the client by text message on October 14, 2015.

192. Freeman had already collected her legal fee for T. Breault's representation on October 16, 2015, when she transferred \$480.00 from the trust account to her operating account as discussed previously.

193. The \$480.00 legal fee from T. Breault that Freeman transferred to her operating account on October 16, 2015 provided Freeman with funds for the trip she took to New York City from October 16-18, 2015 for her friend's wedding.

194. Most of the \$480.00 legal fee from T. Breault that Freeman transferred to her operating account on October 16, 2015 was expended by Freeman during the trip she took to New York City from October 16-18, 2015 for her friend's wedding.

195. After Freeman returned from her trip on October 18, 2015, she proceeded with the work necessary to finalize T. Breault's divorce complaint and arrange for service.

196. On October 22, 2015, Freeman sent a text message to T. Breault to arrange for T. Breault to come to Freeman's office and sign the divorce complaint.

197. In Freeman's series of text messages with T. Breault, the October 22, 2015 text message immediately followed a prior text message sent from Freeman to T. Breault on October 15, 2015.

198. In her October 15, 2015 text message to T. Breault, Freeman confirmed she had received payment for T. Breault's attorney's fee and costs.

199. The October 15, 2015 text message and the October 22, 2015 text message were part of the same series of text messages that included Freeman's October 14, 2015 text message to T. Breault in which Freeman stated her legal fee was \$500.00.

200. T. Breault signed the divorce complaint on October 23, 2015.

201. Between October 23, 2015 and when she filed the complaint on November 4, 2015, Freeman texted with T. Breault in text messages that were part of the same series of text messages identified above, to gather information for service of the complaint.

202. When Freeman transferred \$900.00 to her operating account from the trust account on November 5, 2015, the only attorney's fees present in the trust account were from the \$540.00 deposit on November 4, 2015 for client M. Chavez.

203. Freeman was not entitled to \$900.00 in attorney's fees from the trust account when she made the \$900.00 transfer from the trust account to her operating account on November 5, 2015.

204. Freeman disbursed \$360.00 to herself from the trust account to which she was not entitled, thereby failing to properly maintain and disburse entrusted funds and improperly disbursing entrusted funds for her benefit.

205. Freeman knowingly and willfully misappropriated \$360.00 from the trust account.

Ninth Claim for Relief (From zero balance on October 5, 2015 through November 19, 2015)

206. On October 16, 2015, funds for Cira's court costs and fines and for Freeman's attorney fee were deposited into Freeman's trust account as referenced previously.

207. The amount deposited for Cira was \$494.89, which included \$263.00 for anticipated court costs and fines and \$231.89 for Freeman's attorney's fee.

208. After deducting \$230.00 to replenish the entrusted funds Freeman transferred on October 15, 2015 as set out in the Sixth Claim for Relief, a balance of \$264.89 was left in the trust account for Cira from the funds deposited on October 16, 2015.

209. Freeman should have maintained \$263.00 in the trust account for Cira for his anticipated court costs and fines from October 16, 2015 through the disposition of his case on February 1, 2016.

210. On October 13, 2015, Freeman deposited \$263.00 for A. Michael's court costs and fines into the trust account.

211. Freeman did not disburse A. Michael's \$263.00 to the Clerk of Court for payment of his court costs and fines in October 2015.

212. Freeman did not submit payment for A. Michael's court costs and fines to the Clerk of Court until December 22, 2015.

213. Freeman should have maintained \$263.00 in the trust account for A. Michael for his anticipated court costs and fines from October 13, 2015 until she paid his court costs and fines on December 22, 2015.

214. In addition to the \$263.00 for A. S. Cira, Jr. and the \$263.00 for A. Michael discussed above, as of November 19, 2015 Freeman should have had the following funds in the trust account for clients for whom she deposited funds into the trust account after October 5, 2015:

- a. \$102.00 for client C. Rainford from funds deposited on October 7, 2015;
- b. \$233.00 for client T. Kustra from funds deposited on October 13, 2015;
- c. \$262.44 for client K. Cocker from funds deposited on November 4, 2015.

215. As of November 19, 2015, Freeman had not maintained the funds referenced in the preceding paragraph in trust for her clients.

216. Freeman knowingly and willfully misappropriated the client funds referenced in paragraph 214 above, by the transactions since October 5, 2015 set out previously and as set out below.

217. On October 14, 2015, Freeman transferred \$220.00 from the trust account to her operating account, labeled on the trust account bank statement as for client J. High's court costs in his traffic case.

218. J. High only had \$210.00 in the trust account at the time of this transfer.

219. Freeman tendered \$200.00 in cash to the Mecklenburg County Clerk of Court to pay \$198.00 for court costs and fines for J. High's traffic case.

220. Freeman retained the remaining \$22.00 for her personal use, \$12.00 of which belonged to J. High, and \$10.00 of which were other clients' entrusted funds.

221. Freeman was not entitled to the remaining \$22.00 from the trust account.

222. On November 18, 2015, Freeman withdrew \$375.00 from the trust account by withdrawal authorization numbered 5985.

223. There was no identification of the client(s) to whom the \$375.00 belonged on the withdrawal authorization used by Freeman to withdraw the \$375.00 from the trust account.

224. Freeman made a \$375.00 cash withdrawal from the trust account with no identification of the client(s) to whom the funds belonged on the withdrawal authorization, thereby disbursing funds without creating and maintaining the required record for the disbursement.

225. On November 19, 2015, Freeman withdrew \$250.00 from the trust account by withdrawal authorization numbered 2628.

226. There was no identification of the client(s) to whom the \$250.00 belonged on the withdrawal authorization used by Freeman to withdraw the \$250.00 from the trust account.

227. Freeman made a \$250.00 cash withdrawal from the trust account with no identification of the client(s) to whom the funds belonged on the withdrawal authorization, thereby disbursing funds without creating and maintaining the required record for the disbursement.

228. Freeman was not entitled to the \$375.00 she withdrew from the trust account on November 18, 2015 or to the \$250.00 she withdrew from the trust account on November 19, 2015.

229. After these transfers and withdrawals, on November 19, 2015 the balance of Freeman's trust account was \$73.65.

230. Freeman, through unattributed withdrawals, transfers, and retention of funds from the trust account, failed to properly maintain and disburse entrusted funds and improperly disbursed entrusted funds for her benefit.

231. Through the above-described transfers and withdrawals, Freeman disbursed to herself client funds to which she was not entitled from the trust account.

232. Freeman knowingly and willfully misappropriated funds she took from the trust account or used for her benefit through the above-described transfers and withdrawals.

Tenth Claim for Relief (From opening of trust account in March 2014 through the end of trust account activity in February 2016)

233. From March 2014 through February 2016, Freeman did not maintain contemporaneous client ledgers showing all receipts and disbursements of funds for each client.

234. Freeman failed to maintain contemporaneous client ledgers showing all receipts and disbursements of funds for each client, thereby failing to maintain the required ledger per client from whom and for whom funds were received in the trust account.

235. From March 2014 through February 2016, Freeman did not conduct the required monthly and quarterly reconciliations of the trust account.

236. Freeman failed to compare the bank statement balance with a balance maintained in her records each month and fail to compare the total of individual client balances in her trust account with the bank statement balance each quarter, thereby failing to conduct the required monthly and quarterly reconciliations of her trust account.

237. From March 2014 through February 2016, Freeman made numerous withdrawals and transfers from the trust account without identifying in associated contemporaneous bank documentation the client from whose funds in the trust account she was making the disbursement.

238. Freeman failed to identify the clients from whose funds in the trust account she transferred funds to her operating account or made cash withdrawals, thereby failing to create and maintain required records.

239. On occasion, Freeman disbursed minor amounts more for clients than she had in the trust account for the clients.

240. On occasion, Freeman failed to refund minor balances that remained in the trust account to clients or document in the client file any entitlement to such funds.

241. On occasion, Freeman allowed bank charges to be charged against funds in the trust account.

242. On one occasion, Freeman issued two \$200.00 trust account checks to client A. Saleh as reimbursement of \$200.00 that the client had provided Freeman for payment of a potential fine which the client was not ultimately required to pay. Both checks were negotiated. Freeman did not have \$200.00 in the trust account for the benefit of A. Saleh when she issued the second \$200.00 check. Funds Freeman held in the trust account for other clients were utilized to fund the second \$200.00 check.

243. On December 2, 2015, trust account check #1128 made payable to the Clerk of Superior Court in the amount of \$313.00, labeled as payment for court costs and a late fine for A.

Michael, was returned for insufficient funds. The balance of Freeman's trust account on that date was -\$38.10.

244. By failing to refund balances to certain clients, disbursing more for other clients than those clients had in the trust account, and allowing bank charges to be charged against funds in the trust account, Freeman failed to properly maintain and disburse entrusted funds.

245. Freeman did not provide clients with a written accounting of all receipts and disbursements of their entrusted funds upon the complete disbursement of the client's funds in the trust account.

246. By failing to provide clients with a written accounting of the receipts and disbursements of their funds in the trust account upon the complete disbursement of the client's funds in the trust account, Freeman failed to render required written accountings.

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

CONCLUSIONS OF LAW

1. All the parties are properly before the Hearing Panel and the Panel has jurisdiction over Defendant, Carson W. Freeman, and the subject matter.

2. The term misappropriation is synonymous with embezzlement. *See The North Carolina State Bar v. Ethridge*, 188 N.C. App. 653, 660, 657 S.E.2d 378, 383 (2008), citing and quoting *State v. Foust*, 114 N.C. 842, 843, 19 S.E. 275, 275 (1894).

3. Pursuant to N.C. Gen. Stat. § 14-90, embezzlement is a felony.

4. Felonies generally, and embezzlement specifically, are criminal offenses showing professional unfitness pursuant to 27 N.C. Admin. Code 1B.0103(17).

5. Defendant's conduct, as set forth in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct¹ in effect at the time of her conduct as follows:

- (a) By misappropriating P. Gallo's \$237.00, Freeman committed criminal acts that reflect adversely on her honesty, trustworthiness, or fitness in other respects in violation of Rule 8.4(b) and engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation in violation of Rule 8.4(c);
- (b) By failing to refund P. Gallo his \$237.00 and failing to maintain P. Gallo's funds in the trust account for P. Gallo unless and until those funds were either properly utilized for P. Gallo or refunded to P. Gallo, Freeman failed to properly maintain

¹ The citations to the Rules of Professional Conduct are to the version and numbering in effect at the time of Freeman's conduct.

and disburse entrusted funds and improperly disbursed entrusted funds for her benefit in violation of Rules 1.15-2(a), (j), and (m);

- (c) By failing to provide P. Gallo with a written accounting of all receipts and disbursements of his trust funds upon the complete disbursement of his funds from the trust account, Freeman failed to provide a required accounting to her client in violation of Rule 1.15-3(e);
- (d) By misappropriating D. Connell's \$275.00, Freeman committed criminal acts that reflect adversely on her honesty, trustworthiness, or fitness in other respects in violation of Rule 8.4(b) and engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation in violation of Rule 8.4(c);
- (e) By failing to refund D. Connell his \$275.00 and failing to maintain D. Connell's funds in the trust account for D. Connell unless and until those funds were properly utilized for D. Connell or refunded to D. Connell, Freeman failed to properly maintain and disburse entrusted funds and improperly disbursed entrusted funds for her benefit in violation of Rules 1.15-2(a), (j), and (m);
- (f) By failing to provide D. Connell with a written accounting of all receipts and disbursements of his trust funds upon the complete disbursement of his funds from the trust account or in response to his question concerning the status of his funds, Freeman failed to provide a required accounting to her client in violation of Rule 1.15-3(e);
- (g) By misappropriating B. Cypher's \$275.00, Freeman committed criminal acts that reflect adversely on her honesty, trustworthiness, or fitness in other respects in violation of Rule 8.4(b) and engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation in violation of Rule 8.4(c);
- (h) By failing to refund B. Cypher his \$275.00 and failing to maintain B. Cypher's funds in the trust account for B. Cypher unless and until those funds were properly utilized for B. Cypher or refunded to B. Cypher, Freeman failed to properly maintain and disburse entrusted funds and improperly disbursed entrusted funds for her benefit in violation of Rules 1.15-2(a), (j), and (m);
- (i) By failing to provide B. Cypher with a written accounting of all receipts and disbursements of his trust funds upon the complete disbursement of his funds from the trust account, Freeman failed to provide a required accounting to her client in violation of Rule 1.15-3(e);
- (j) By misappropriating E. Shoemaker's \$200.00, Freeman committed criminal acts that reflect adversely on her honesty, trustworthiness, or fitness in other respects in violation of Rule 8.4(b) and engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation in violation of Rule 8.4(c);

- (k) By failing to refund E. Shoemaker her \$200.00 and failing to maintain E. Shoemaker's funds in the trust account for E. Shoemaker unless and until those funds were properly utilized for E. Shoemaker or refunded to E. Shoemaker, Freeman failed to properly maintain and disburse entrusted funds and improperly disbursed entrusted funds for her benefit in violation of Rules 1.15-2(a), (j), and (m);
- (l) By failing to provide E. Shoemaker with a written accounting of all receipts and disbursements of the trust funds upon the complete disbursement of her funds from the trust account or in response to her question concerning the status of her funds, Freeman failed to provide a required accounting to her client in violation of Rule 1.15-3(e);
- (m) Through unattributed transfers and withdrawals, through withdrawals from which she retained funds, and by disbursements made for her benefit, Freeman misappropriated entrusted funds and thereby committed criminal acts that reflect adversely on her honesty, trustworthiness, or fitness in other respects in violation of Rule 8.4(b) and engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation in violation of Rule 8.4(c);
- (n) Through unattributed transfers and withdrawals, through withdrawals from which she retained funds, and by disbursements made for her benefit, Freeman failed to properly maintain and disburse entrusted funds and improperly disbursed entrusted funds for her benefit in violation of Rules 1.15-2(a), (j), and (m);
- (o) By misappropriating \$1,200.00 of client funds not belonging to J. Phillips through her disbursement to J. Phillips by trust account check 1052 dated August 19, 2015, Freeman committed a criminal act that reflect adversely on her honesty, trustworthiness, or fitness in other respects in violation of Rule 8.4(b) and engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation in violation of Rule 8.4(c);
- (p) By disbursing \$1,200.00 of client funds not belonging to J. Phillips to J. Phillips by trust account check 1052 dated August 19, 2015, Freeman failed to properly maintain and disburse entrusted funds and improperly disbursed entrusted funds for her benefit in violation of Rules 1.15-2(a), (j), and (m);
- (q) Through the use of entrusted funds obtained by unattributed withdrawals from the trust account for the benefit of clients who were not entitled to those entrusted funds, Freeman misappropriated entrusted funds and thereby committed criminal acts that reflect adversely on her honesty, trustworthiness, or fitness in other respects in violation of Rule 8.4(b) and engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation in violation of Rule 8.4(c)²;

² All violations of the Rules of Professional Conduct set out herein were found by the Hearing Panel by unanimous vote with the exception of violations contained in subparagraph (q) which were found by majority vote.

- (r) By using entrusted funds obtained by unattributed withdrawals from the trust account for the benefit of clients who were not entitled to those entrusted funds, Freeman failed to properly maintain and disburse entrusted funds and improperly disbursed entrusted funds in violation of Rules 1.15-2(a) and (m);
- (s) By making cash withdrawals from the trust account with no identification of the client(s) to whom the funds belonged on the withdrawal authorization, Freeman disbursed funds without creating and maintaining the required record for the disbursement in violation of Rule 1.15-3(b)(3) and Rule 1.15-2(a);
- (t) By transferring funds from the trust account to her operating account with no identification of the client(s) to whom the funds belonged on the bank statement or on any other written or electronic record of the transfer or on any instruction or authorization for the transfer, Freeman disbursed funds without creating and maintaining the required record for the disbursement in violation of Rule 1.15-3(b)(3) and Rule 1.15-2(a);
- (u) By writing trust account checks disbursing funds from the trust account with no identification on the check of the client(s) from whose balance(s) in the trust account the funds were being disbursed, Freeman disbursed funds without creating and maintaining the required record for the disbursement in violation of Rule 1.15-3(b)(2) and Rule 1.15-2(a);
- (v) By misappropriating \$230.00 of client funds by her transfer on October 15, 2015, Freeman committed a criminal act that reflect adversely on her honesty, trustworthiness, or fitness in other respects in violation of Rule 8.4(b) and engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation in violation of Rule 8.4(c);
- (w) By disbursing \$230.00 to herself from the trust account to which she was not entitled, Freeman failed to properly maintain and disburse entrusted funds and improperly disbursed entrusted funds for her benefit in violation of Rules 1.15-2(a), (j), and (m);
- (x) By misappropriating T. Breault's \$50.00, Freeman committed criminal acts that reflect adversely on her honesty, trustworthiness, or fitness in other respects in violation of Rule 8.4(b) and engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation in violation of Rule 8.4(c);
- (y) By misappropriating \$100.00 belonging to T. Breault and other clients, Freeman committed criminal acts that reflect adversely on her honesty, trustworthiness, or fitness in other respects in violation of Rule 8.4(b) and engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation in violation of Rule 8.4(c);

- (z) By failing to maintain T. Breault's \$113.32 in trust for T. Breault until she utilized it for the filing fee and service costs on November 4, 2015 or thereafter, Freeman failed to properly maintain and disburse entrusted funds and improperly disbursed entrusted funds for her benefit in violation of Rules 1.15-2(a), (j), and (m);
- (aa) By making a \$100.00 transfer from the trust account to her operating account with no identification, on the bank statement or on any other written or electronic record of the transfer or on any instruction or authorization for the transfer, of the client(s) to whom the funds belonged, Freeman disbursed funds without creating and maintaining the required record for the disbursement in violation of Rule 1.15-3(b)(3) and Rule 1.15-2(a);
- (bb) By misappropriating \$360.00 in entrusted funds from the trust account, Freeman committed a criminal act that reflects adversely on her honesty, trustworthiness, or fitness in other respects in violation of Rule 8.4(b) and engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation in violation of Rule 8.4(c);
- (cc) By disbursing \$360.00 to herself from the trust account to which she was not entitled, Freeman failed to properly maintain and disburse entrusted funds and improperly disbursed entrusted funds for her benefit in violation of Rules 1.15-2(a), (j), and (m);
- (dd) Through Freeman's unattributed withdrawals and transfer and retention of funds from the trust account, Freeman misappropriated entrusted funds and thereby committed criminal acts that reflect adversely on her honesty, trustworthiness, or fitness in other respects in violation of Rule 8.4(b) and engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation in violation of Rule 8.4(c);
- (ee) Through Freeman's unattributed withdrawals and transfer and retention of funds from the trust account, Freeman failed to properly maintain and disburse entrusted funds and improperly disbursed entrusted funds for her benefit in violation of Rules 1.15-2(a), (j), and (m);
- (ff) By making a \$375.00 cash withdrawal from the trust account with no identification of the client(s) to whom the funds belonged on the withdrawal authorization, Freeman disbursed funds without creating and maintaining the required record for the disbursement in violation of Rule 1.15-3(b)(3) and Rule 1.15-2(a);
- (gg) By making a \$250.00 cash withdrawal from the trust account with no identification of the client(s) to whom the funds belonged on the withdrawal authorization, Freeman disbursed funds without creating and maintaining the required record for the disbursement in violation of Rule 1.15-3(b)(3) and Rule 1.15-2(a);

- (hh) By failing to maintain contemporaneous client ledgers showing all receipts and disbursements of funds for each client, Freeman failed to maintain the required ledger per client from whom and for whom funds were received in the trust account in violation of Rule 1.15-3(b)(5);
- (ii) By failing to compare the bank statement balance with a balance maintained in her records each month and by failing to compare the total of individual client balances in her trust account with the bank statement balance each quarter, Freeman failed to conduct the required monthly and quarterly reconciliations of her trust account in violation of Rule 1.15-3(d)(1) and (2);
- (jj) By failing to identify the clients from whose funds in the trust account she transferred funds to her operating account or made cash withdrawals, Freeman failed to create and maintain required records in violation of Rule 1.15-3(d)(3);
- (kk) By failing to refund balances to certain clients, by disbursing more for other clients than those clients had in the trust account, and by allowing bank charges to be charged against funds in the trust account, Freeman failed to properly maintain and disburse entrusted funds in violation of Rule 1.15-2(a), (j), and (m);
- (ll) By issuing two \$200.00 checks to client A. Saleh to reimburse A. Saleh the \$200.00 potential fine that A. Saleh was not ultimately required to pay and disbursing more than was in the trust account for A. Saleh, Freeman failed to properly maintain and disburse entrusted funds in violation of Rule 1.15-2(a) and (m); and
- (mm) By failing to provide clients with a written accounting of the receipts and disbursements of their funds in the trust account upon the complete disbursement of the client's funds in the trust account, Freeman failed to render required written accountings in violation of Rule 1.15-3(e).

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

FINDINGS OF FACT REGARDING DISCIPLINE

1. The findings of fact in paragraphs 1 – 246 above are reincorporated as if set forth herein.
2. Freeman engaged in multiple instances of misappropriation of entrusted funds, which is a criminal act that tarnishes her honesty, trustworthiness, and fitness as a lawyer.
3. Client E. Shoemaker testified that, after her experience with Freeman taking money from her and not refunding her money to her, she will be more cautious with trusting money to attorneys in the future.

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

5. Freeman's misappropriation of client funds occurred at times of demonstrated personal financial need.

6. Freeman caused significant harm to clients whose funds she failed to safeguard and whose funds she misappropriated.

7. Freeman's misappropriation of funds caused significant harm and potential significant harm, creating the foreseeable risk that Freeman would not have the necessary funds available to pay court costs and fines for clients such as A. Michael, discussed above, whose funds she failed to safeguard and maintain in trust.

8. Freeman's misappropriation of her clients' funds betrayed the trust placed in her by her clients to properly maintain and disburse their entrusted client funds.

9. Freeman put her own personal interests ahead of the interests of her clients.

10. Freeman established a general reputation for good character.

11. Freeman cooperated with the State Bar's investigation, timely responding to the State Bar's inquiries and providing the requested records. Freeman has also had a cooperative attitude toward the DHC proceedings.

12. Freeman expressed remorse during the DHC proceedings.

13. Freeman took steps to educate herself regarding the rules applicable to attorney trust accounts and proper trust account record-keeping after she was contacted by the State Bar after the NSF discussed above.

14. Freeman has not received prior discipline.

15. Freeman should have known better than to engage in these acts that have led to the discipline imposed in this order.

16. The Hearing Panel finds by clear, cogent, and convincing evidence the facts contained in the conclusions it makes, set out below, of the applicable factors regarding discipline from those listed in 27 N.C. Admin. Code 1B.0116(f).

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

CONCLUSIONS REGARDING DISCIPLINE

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

2. The Hearing Panel considered all of the factors enumerated in 27 N.C. Admin. Code 1B.0116(f)(1), (2) and (3) of the Rules and Regulations of the State Bar and concluded that the following factors are applicable:

27 N.C. Admin. Code. 1B.0116(f)(1)

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

27 N.C. Admin. Code 1B.0116(f)(2)

- a. Factor (A), Acts of dishonesty, misrepresentation, deceit or fabrication;
- b. Factor (B), Impulsive acts of dishonesty, misrepresentation, deceit, or fabrication without timely remedial efforts;
- c. Factor (C), Misappropriation or conversion of assets of any kind to which Defendant or recipient was not entitled;
- d. Factor (D), Commission of a felony;

27 N.C. Admin. Code 1B.0116(f)(3)

- a. Factor (A), The absence of disciplinary offenses;
- b. Factor (C), Dishonest or selfish motive;
- c. Factor (D), Timely good faith efforts to make restitution or to rectify consequences of misconduct;
- d. Factor (G), Multiple offenses;
- e. Factor (J), Interim rehabilitation;

- f. Factor (K), Full and free disclosure to the hearing panel and a cooperative attitude toward the proceedings;
- g. Factor (P), Remorse;
- h. Factor (Q), Good character and reputation, generally;
- i. Factor (S), Minimal degree of experience in the practice of law;
- j. Factor (V) Other factors, to wit:
 - i. The attorney from whom Freeman sought mentoring did not provide the mentoring skills that Freeman relied upon when she took up the relationship of sharing an office space with him.

3. A lawyer's misappropriation of entrusted funds reflects poorly upon the profession and engenders a lack of trust and confidence in lawyers, causing potential significant harm to the public and the profession. If people don't trust lawyers, they will not trust the law. Trust in the rule of law and our legal system is integral to orderly resolution of conflict in our society.

4. The Hearing Panel considered all of the disciplinary options available to it and determined that disbarment is appropriate.

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

- a. Freeman engaged in misconduct constituting felonies and violations of the trust of her clients and the public;
- b. Entry of an order imposing less serious discipline would fail to acknowledge the seriousness of the offenses Freeman committed and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar of this State; and
- c. The protection of the public and the legal profession requires that Freeman not be permitted to resume the practice of law until she demonstrates the following: that she has reformed; that she understands her obligations to her clients, the public, the courts, and the legal profession; and that reinstatement will not be detrimental to the public or the integrity and standing of the legal profession. The State Bar rule on reinstatement, 27 N.C. Admin. Code 1B.0129, requires disbarred lawyers to make such a showing before they may resume practicing law, whereas no such showing of reformation is required by the rule of attorneys whose licenses are suspended.

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

ORDER OF DISCIPLINE

1. Defendant, Carson W. Freeman, is hereby DISBARRED.
2. Freeman shall surrender her license and membership card to the Secretary of the North Carolina State Bar no later than 30 days following service of this order upon her.
3. Freeman shall pay the administrative fees and costs of this proceeding, including the costs of all depositions, as assessed by the Secretary of the North Carolina State Bar. Freeman must pay the costs within 30 days of service upon her of the statement of costs by the Secretary.
4. Within 15 days of the effective date of this Order Freeman shall provide the State Bar with an address and telephone number at which clients seeking return of files can communicate with Freeman and obtain such files. Freeman must keep this information current with the State Bar, providing updated information to the State Bar within 15 days of any change.
5. Freeman shall promptly return client files in her possession, custody, or control to clients upon request, within 5 days of receipt of such request. Freeman will be deemed to have received any such request 3 days after the date such request is sent to Freeman if the request is sent to the address Freeman provided the State Bar pursuant to the preceding paragraph.
6. Freeman shall comply with all provisions of 27 N.C. Admin. Code 1B.0128 as set out therein.
7. Prior to filing any petition for reinstatement, Freeman must have made restitution to all clients whose funds she failed to maintain in trust, and to the Client Security Fund for any claims paid to Freeman's clients.

Signed by the Chair with the consent of the other Hearing Panel members, this the 30th day of August, 2018.


Beverly T. Beal
Chair, Disciplinary Hearing Panel