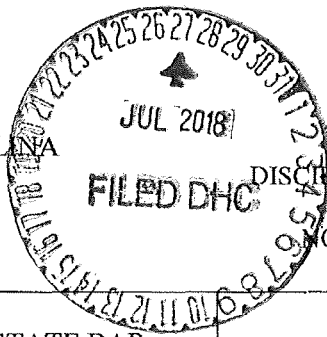


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
18 DHC 32

THE NORTH CAROLINA STATE BAR,
Plaintiff

v.

CHRISTOPHER T. WATKINS, Attorney,
Defendant

CONSENT ORDER OF DISCIPLINE

This matter was considered by a Hearing Panel of the Disciplinary Hearing Commission composed of Fred M. Morelock, Chair, and members Donald C. Prentiss and Christopher Bruffey, pursuant to North Carolina Administrative Code, Title 27, Chapter 1, Subchapter B, § .0115(i). Plaintiff was represented by Katherine E. Jean. Defendant, Christopher T. Watkins, represented himself. Defendant waives a formal hearing in this matter. The parties stipulate and agree to the findings of fact and conclusions of law recited in this order, and consent to the discipline imposed by this order. By consenting to the entry of this order, Defendant knowingly, freely, and voluntarily waives his right to appeal this consent order or to challenge in any way the sufficiency of the findings and conclusions herein.

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 (hereafter "State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the rules and regulations of the North Carolina State Bar promulgated thereunder.

2. Defendant, Christopher T. Watkins (hereafter "Defendant" or "Watkins"), was admitted to the North Carolina State Bar on 18 August 1984 and is an attorney at law licensed to practice in North Carolina, subject to the rules, regulations and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. During the relevant period referred to herein, Watkins was actively engaged in the practice of law in Graham, Alamance County, North Carolina.

4. Watkins was properly served with the summons and complaint in this matter.

5. Watkins maintained a trust account in connection with his law practice at Wells Fargo Bank, account number ending in 1831 ("trust account").

6. Watkins used his trust account as a general trust account.

7. On 3 September 2014, the State Bar conducted a random procedural audit of Watkins's trust account.

8. The audit revealed numerous failures by Watkins to properly monitor and maintain the records for his trust account as required by the Rules of Professional Conduct. Specifically, the audit revealed that Watkins engaged in the following conduct:

- a. Watkins failed to conduct monthly and quarterly reconciliations of his trust account;
- b. Watkins rarely provided written accountings to a client at least annually for funds held more than 12 months or at the completion of disbursement;
- c. Watkins advanced funds from the trust account leaving some clients with a negative balance;
- d. Watkins failed to maintain a ledger of attorney funds to service the trust account;
- e. Watkins failed to escheat unidentified/abandoned funds as required by N.C. Gen. Stat. § 116B-53, to wit: Watkins has been unable to identify the owner(s) of over \$30,000 deposited in his trust account since at least 2003;
- f. Watkins failed to promptly remove earned fees or costs from his trust account; and
- g. Watkins failed to promptly pay to the client funds in his possession belonging to the client, to which the client was entitled.

9. The State Bar previously conducted random procedural audits of Watkins's trust account located at Wells Fargo Bank in 1991, 1999, and 2008.

10. The 1991, 1999, and 2008 audits found similar deficiencies in Watkins's handling and monitoring of entrusted client funds as those noted in the 2014 audit.

11. As a result of the 2014 random audit, the State Bar requested all of Watkins's trust account records to conduct a full audit.

12. The trust account records provided by Watkins were disorganized, often contradictory, and inadequate in terms of accuracy and completeness.

13. The evidence derived from the full audit determined that, in addition to the deficiencies noted in paragraph 8 above, Watkins engaged in the following additional conduct regarding his trust account:

- a. Watkins failed to consistently maintain accurate client ledgers that identified and tracked, per client, the entrusted funds received and disbursed for each client;

- b. Watkins failed to always identify the source of entrusted funds deposited into his trust accounts on the corresponding deposit slips and failed to accurately identify the client(s) against whose balance in the trust account all disbursements were made from his trust account; and
- c. On occasion, Watkins disbursed funds from his trust account to or on behalf of clients using funds belonging to other clients, resulting in negative client balances within the trust account and funds being used for the benefit of someone other than the beneficial owner of the funds.

Based upon the foregoing Findings of Fact and with the consent of the parties, the Hearing Panel makes the following

Conclusions of Law

1. All parties are properly before the Hearing Panel and the DHC has jurisdiction over Defendant, Christopher T. Watkins, and over 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) in that Defendant violated the Rules of Professional Conduct as follows:

- (a) By failing to reconcile his trust account on a monthly and quarterly basis, Watkins failed to conduct the requisite reconciliations of his trust account in violation of Rules 1.15-3(d)(1) and (2);
- (b) By failing to identify the client(s) on all deposit slips of entrusted funds into his trust accounts, Watkins violated Rules 1.15-2(a) and 1.15-3(b)(1);
- (c) By failing to accurately identify the client(s) on all disbursements made from his trust accounts, Watkins violated Rules 1.15-2(a) and 1.15-3(b)(2);
- (d) By failing to consistently maintain accurate client ledgers that identified and tracked, per client, the entrusted funds received and disbursed for each client – including a ledger of attorney funds to service the trust account – Watkins failed to maintain ledgers containing a record of receipts and disbursements for each person for whom funds were received and showing the current balance of funds held in the trust account for each person in violation of Rules 1.15-2(a) and 1.15-3(b)(5);
- (e) By failing to provide clients with the required written accounting of the funds held in his trust account, Watkins failed to provide a written record at least annually to clients if funds were held more than 12 months or at completion of disbursement in violation of Rule 1.15-3(e);
- (f) By failing to promptly remove earned fees or costs from his trust account, Watkins failed to hold entrusted property separate from property belonging to

himself in violation of Rules 1.15-2(a), (f), and (m) (presently codified as Rule 1.15-2(n));

- (g) By advancing funds for a client from funds belonging to another client who was not the beneficiary of those funds, Watkins used or pledged entrusted property for the personal benefit of a person other than the legal or beneficial owner of that property in violation of Rule 1.15-2(a), Rule 1.15-2(j) (presently codified as Rule 1.15-2(k)), and Rule 1.15-2(m) (presently codified as Rule 1.15-2(n)); and
- (h) By maintaining a balance of over \$30,000 in unidentifiable funds in his trust account since at least 2003, Watkins failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3, failed to promptly deliver entrusted property as directed by his client in violation of Rule 1.15-2(m) (presently codified as Rule 1.15-2(n)), and failed to take appropriate steps to escheat abandoned property in accordance with N.C. Gen. Stat. §116B-53 in violation of Rule 1.15-2(q) (presently codified as Rule 1.15-2(r)).

Based 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. Watkins has substantial experience in the practice of law.
2. There is no evidence of misappropriation or improper disbursement of entrusted funds to Watkins. There is also no evidence that Watkins intended to harm his clients and there is no evidence of any dishonest or selfish motive on the part of Watkins.
3. Watkins's failure to conduct the required quarterly reconciliations, failure to otherwise monitor his trust account, and failure to supervise his staff to which he delegated trust account responsibilities caused potential significant harm to his clients. Conducting quarterly reconciliations of the trust account is the lynchpin of proper maintenance and protection of entrusted funds. Watkins's continued failure to reconcile his trust account and failure to maintain proper trust account records – particularly after having been previously cited on three separate occasions for the same deficiencies in his trust account management via the random audit process – demonstrate a pattern of misconduct and demonstrate Watkins's intent to commit acts where the potential harm was foreseeable.
4. Watkins's conduct placed entrusted funds at risk and has the potential to cause significant harm to the standing of the profession in the eyes of the public because it shows his disregard for his duties as an attorney. Such erosion of public confidence in attorneys tends to sully the reputation of, and fosters disrespect for, the profession as a whole. Confidence in the legal profession is a building block for public trust in the entire legal system.
5. Watkins has prior discipline. In 1990, Watkins was reprimanded by the Disciplinary Hearing Commission for failing to properly communicate with a client, for undertaking a representation in which he did not have sufficient competence, and for engaging in a conflict of interest. In 2010, Watkins was suspended for three years – with the entirety of the

suspension stayed – by the Disciplinary Hearing Commission for failing to timely file and pay his state and federal income taxes.

6. Watkins fully cooperated with the State Bar throughout the disciplinary process, and was candid in his responses to the State Bar's inquiries. Watkins acknowledges that his trust account practices were insufficient and caused potential significant harm to his clients and the individuals for whom he held entrusted funds.

7. 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 upon the Findings of Fact, Conclusions of Law, and Additional Findings Regarding Discipline, and with the consent of the parties, the Hearing Panel also enters the following

Conclusions Regarding Discipline

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

2. The Hearing Panel has considered all of the factors enumerated in 27 N.C. Admin. Code 1B.0116(f)(1) of the Rules and Regulations of the North Carolina State Bar and concludes the following factors warrant suspension of Defendant's license:

- (a) Intent of the defendant to commit acts where the harm or potential harm is foreseeable;
- (b) Defendant's actions had a potential negative impact on his clients' and the public's perception of the legal profession.

3. The Hearing Panel has considered all of the factors enumerated in 27 N.C. Admin. Code 1B.0116(f)(2) of the Rules and Regulations of the North Carolina State Bar and concludes no factors are present that would warrant disbarment.

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

- (a) Absence of a dishonest or selfish motive;
- (b) Defendant engaged in a pattern of misconduct;
- (c) Defendant engaged in multiple offenses; and
- (d) Degree of experience in the practice of law.

5. Defendant's failure to properly safeguard entrusted client funds and properly supervise his non-lawyer assistants caused potential significant harm to his clients whose funds were placed at risk while entrusted to Defendant's care.

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

7. The Hearing Panel has carefully considered all of the different forms of discipline available to it, including admonition, reprimand, censure, and suspension, and the Hearing Panel concludes that discipline short of a suspension would not be sufficient because of the gravity of the potential harm to the clients. The Panel further concludes that discipline short of a suspension would fail to acknowledge the seriousness of the offenses committed by Defendant and send the wrong message to attorneys regarding the conduct expected of members of the Bar in this State.

8. The Hearing Panel concludes that Defendant's conduct warrants and can only be addressed through imposition of a suspension on Defendant's law license. The Hearing Panel further concludes that Defendant should have the opportunity to apply for a stay of suspension upon satisfying certain conditions and upon continued compliance with conditions outlined below that will ensure the public is protected from future transgressions by Defendant as well as ensure Defendant's adherence to the Rules of Professional Conduct.

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, Christopher T. Watkins, is hereby suspended from the practice of law for three years. This order shall be effective 60 days after the date of service of this order upon Defendant.

2. Defendant is taxed with the costs and administrative fees of this action. Defendant shall pay the costs and administrative fees of this proceeding as assessed by the Secretary within 60 days of service of the statement of costs and administrative fees upon him.

3. Defendant shall submit his license and membership card to the Secretary of the North Carolina State Bar no later than 10 days following the effective date of this Order.

4. Defendant shall comply with the wind down provisions contained in Rule .0128 of the North Carolina State Bar Discipline and Disability Rules (27 N.C. Admin. Code 1B § .0128), although Defendant shall have 60 days to wind his practice down as noted in paragraph 1 above. Defendant shall file an affidavit with the Secretary of the North Carolina State Bar within 10 days of the effective date of this order, certifying he has complied with the wind down rule.

5. Within 10 days of the effective date of this Order, Defendant shall provide the State Bar with an address and telephone number at which clients seeking return of files can

communicate with Defendant and obtain such files, and Defendant shall promptly return all files to his clients upon request.

6. If Defendant fails to fully comply with 27 N.C. Admin. Code 1B § .0128 and the Court appoints a trustee to wind down any portion of Defendant's practice, Defendant shall reimburse the State Bar for all expenses incurred by the State Bar in winding down Defendant's practice. Such expenses may include, but are not limited to, storage facility fees, rent payments, moving expenses, charges for secure disposal of client files, postage or other mailing expenses, and compensation paid to the trustee and/or the trustee's assistant for time and travel associated with the trusteeship. After the Court has discharged the trustee, the State Bar shall send an invoice of wind-down expenses to Defendant at Defendant's last known address of record with the North Carolina State Bar. Defendant shall not be eligible for reinstatement until he has reimbursed the State Bar for all wind-down expenses incurred.

7. After serving no less than six months of the suspension, Defendant may apply for a stay of the remaining period of suspension imposed by this Order by filing a verified petition with the Secretary of the North Carolina State Bar. In addition to complying with the general provisions for reinstatement listed in Rule .0129 of the North Carolina State Bar Discipline & Disability Rules, to be eligible for a stay of the remaining period of suspension, Defendant must demonstrate compliance with the following conditions by clear, cogent, and convincing evidence:

- (a) Defendant has timely complied with paragraphs 2-6 of this section of the Order of Discipline, including payment of any costs and administrative fees assessed as a result of this disciplinary proceeding or any related administrative fees imposed by the North Carolina State Bar;
- (b) Defendant shall make one final attempt to identify the funds remaining in his Wells Fargo trust account (account number ending in 1831) with the assistance of an accountant approved of in advance by the Office of Counsel. Defendant shall ensure the accountant provides the Office of Counsel with a final report on the attempted identification of funds and a proposed disbursement plan, including all documentation supporting all identifications made and proposed disbursements. Defendant shall cooperate with the State Bar to the extent necessary to obtain the State Bar's approval of the disbursement plan;
- (c) Defendant is presently enjoined from handling entrusted funds pursuant to an order of preliminary injunction entered against Defendant in Wake County Superior Court (file no. 17 CVS 8071). After completing the final attempt to identify the owner(s) of all remaining funds and obtaining the State Bar's approval for the disbursement plan as described in paragraph 3(b), Defendant shall file a motion with the Wake County Superior Court to disburse all remaining funds to the rightful and identified owner(s) of the funds and escheat any remaining unidentified funds in accordance with N.C. Gen. Stat. § 116B-53. After disbursing all funds from Defendant's trust account pursuant to court order, Defendant shall close the account. Until the trust account is closed, however,

Defendant shall continue to monitor and complete all required reconciliations of all trust accounts utilized by Defendant for his law practice;

- (d) Defendant shall complete six hours of trust account continuing legal education programs, approved in advance by the Office of Counsel, including at least one that includes discussion of quarterly reconciliations of the trust account taught by Trust Account Compliance Counsel for the North Carolina State Bar;
- (e) Defendant has kept the North Carolina State Bar membership department advised of his current physical home and business addresses and telephone numbers;
- (f) Defendant has accepted all certified mail from the North Carolina State Bar and responded to all letters of notice and requests for information from the North Carolina State Bar by the deadlines stated in the communication or within fifteen days of receipt of such communication, whichever is earlier;
- (g) Defendant has timely complied with his State Bar membership and continuing legal education requirements, and paid all fees and costs assessed by the State Bar and the Client Security Fund by the applicable deadline;
- (h) Defendant has participated fully and timely in the State Bar's fee dispute resolution program when notified of any petitions for resolution of disputed fees; and
- (i) Defendant has not violated the Rules of Professional Conduct or any state or federal laws other than minor traffic violations during the period of suspension.

8. Defendant may file a petition seeking a stay of the remaining period of suspension and setting forth the above requirements up to 30 days prior to the end of the six month period but shall not be reinstated prior to the end of that six month period.

9. If Defendant successfully seeks a stay of the suspension of his law license pursuant to this Order, the stay will continue in force only as long as Defendant complies with the following conditions:

- (a) If the Wake County Superior Court lifts the injunction currently in place and permits Defendant to handle entrusted funds, Defendant shall employ an accountant approved in advance by the Office of Counsel to assist Defendant in monitoring and reconciling his trust account(s) as required by the Rules of Professional Conduct should Defendant choose to handle entrusted funds in association with his law practice.
- (b) Should Defendant be permitted to handle entrusted funds and should Defendant choose to handle entrusted funds in association with his law practice, Defendant shall open a new IOLTA trust account at a bank approved by the North Carolina State Bar for use in his law practice.

- (c) Defendant shall provide the State Bar with reports of all quarterly reconciliations as required by Rule 1.15-3 for all trust accounts and fiduciary accounts to which Defendant has access and/or in which Defendant deposits entrusted funds as follows:
- i. In addition to the three-way reconciliation reports, for the months covered by the submitted report, Defendant shall provide: (i) client ledgers for each client whose funds are held in the trust account during the stay, (ii) any ledger 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 statements, cleared checks, deposit slips, and deposit items associated with the reports;
 - ii. The reports are due no later than 30 days after the end of each quarter (first quarter's report due April 30, second quarter's report due July 30, third quarter's report due October 30, and fourth quarter's report due January 30);
 - iii. Defendant shall certify with each quarterly report that he has personally reviewed the reconciliation report(s) and all relevant ledgers, bank statements, cancelled checks, deposit slips, and deposit items associated with the report(s), and Defendant shall further certify that no entrusted funds received by him or his law office have been deposited into any account other than his trust account(s);
 - iv. If any of the quarterly reports referenced above note any irregularities or deficiencies, Defendant shall promptly 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 30 days of the date of the report;
 - v. All reconciliations and reports referred to herein will be completed and submitted at Defendant's sole expense; and
 - vi. Failure of the Defendant to timely submit any report required by this Order shall be grounds to lift the stay and activate the remainder of Defendant's suspension.
- (d) Defendant shall certify annually on or before June 30 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;

- (e) Defendant shall successfully complete at least one hour of continuing legal education (CLE) in the area of trust account management during each calendar year of the period of stayed suspension in which Defendant operates a trust or fiduciary account in association with his law practice. Defendant shall provide written proof of successful completion of these CLE courses to the State Bar within ten days of completing the course;
- (f) Defendant shall have sole signatory authority on all general trust accounts, dedicated trust accounts, and fiduciary accounts maintained by Defendant and shall not allow the use of signature stamps, or electronic signature in lieu of his hand affixed signature;
- (g) During the period of stayed suspension, Defendant shall permit audits of his trust and operating accounts by the North Carolina State Bar. Such audits will be conducted at Defendant's expense, and all costs incurred during the course of the audit shall be paid by Defendant within thirty (30) days of the assessed costs being served upon Defendant. The North Carolina State Bar will not exercise the right to audit the Defendant's bank accounts more than twice a year. Such limitation on random audits will not preclude the North Carolina State Bar from conducting any audits for cause pursuant to the Rules of Professional Conduct. Furthermore, any information or documentation gained by the North Carolina State Bar while conducting said audit(s) may result in further disciplinary proceedings being brought against Defendant;
- (h) Defendant shall comply with any requests from the Office of Counsel to provide any information regarding his trust accounts or to sign and provide any release or authorization to allow the Office of Counsel to obtain information directly from any bank in which Defendant maintains a trust account, by the deadline stated in the request;
- (i) Defendant's failure to timely submit any report or materials required by this Order shall be grounds to lift the stay and re-activate the suspension;
- (j) Defendant shall keep the North Carolina State Bar membership department advised of his current physical home and business addresses and telephone numbers;
- (k) Defendant shall accept all certified mail from the North Carolina State Bar and respond to all letters of notice and requests for information from the North Carolina State Bar by the deadlines stated in the communication or within fifteen days of receipt of such communication, whichever is earlier;
- (l) Defendant shall timely comply with his State Bar membership and continuing legal education requirements, and pay all fees and costs assessed by the State Bar and the Client Security Fund by the applicable deadline;

- (m) Defendant shall participate fully and timely in the State Bar's fee dispute resolution program when notified of any petitions for resolution of disputed fees; and
- (n) Defendant shall not violate the Rules of Professional Conduct or any state or federal laws other than minor traffic violations.

10. If Defendant fails to comply with any one or more of the conditions stated in Paragraph 9 above, then the stay of the suspension of his law license may be lifted as provided in 27 N.C. Admin. Code 1B § .0118 et seq. of the North Carolina State Bar Discipline and Disability Rules.

11. If Defendant does not seek a stay of any active period of suspension, or if some part of the suspension is stayed and thereafter the stay is revoked, Defendant must provide in his application for reinstatement clear, cogent, and convincing evidence of the following:

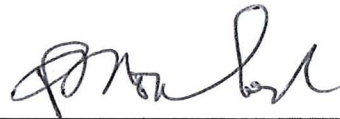
- (a) Compliance with the general provisions for reinstatement listed in 27 N.C. Admin. Code 1B § .0129 of the North Carolina State Bar Discipline & Disability Rules; and
- (b) Compliance with the conditions set out in paragraphs 7(a) – (d);
- (c) Defendant kept the Membership Department of the State 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;
- (d) 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;
- (e) 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;
- (f) Defendant has come into compliance with any outstanding CLE or membership obligations at the time of the filing of his petition for reinstatement;
- (g) Defendant did not violate any of the Rules of Professional Conduct in effect during the period of the suspension;
- (h) Defendant did not violate any laws of the State of North Carolina or of the United States during the period of the suspension; and
- (i) 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.

12. Nothing in this Order shall prohibit the State Bar from investigating and, if necessary, pursuing disciplinary action against Defendant for additional misconduct discovered or reported which occurred during the same time period as the conduct addressed in this Order.

13. 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 § .0118(a) 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 three 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 Disciplinary Hearing Panel Chair with the consent of the other hearing panel members, this the 27 day of July, 2018.

(PM) NUNC PRO TUNC
TO 7/3/18




Fred M. Morelock, Chair
Disciplinary Hearing Panel

CONSENTED TO BY:



Katherine E. Jean, Counsel
Attorney for the North Carolina State Bar



Christopher T. Watkins
Defendant