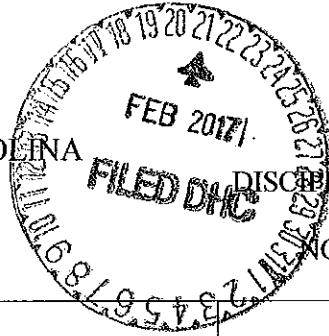


STATE OF NORTH CAROLINA

WAKE COUNTY



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

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

PAUL N. BLAKE, III, Attorney,

Defendant

ORDER OF DISCIPLINE

THIS MATTER was considered by a Hearing Panel of the Disciplinary Hearing Commission composed of the Chair, Donald C. Prentiss, and members William O. King and Tyler B. Morris upon Plaintiff's Motion for Order of Discipline. Mary D. Winstead represented Plaintiff, the North Carolina State Bar. Defendant filed a Motion for Extension of Time to Answer Complaint, but he did not file an answer or any other substantive pleadings in this matter, nor has he responded to Plaintiff's Motion for Order of Discipline. After review of the pleadings herein and pursuant to 27 N.C. Admin. Code §§ 1B.0114(f) and (j), the Hearing Panel determines it is appropriate to grant Plaintiff's Motion for Order of Discipline.

THEREFORE, based on the pleadings and the admissions established by Defendant's default pursuant to 27 N.C. Admin. Code § 1B.0114(f), 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, Paul N. Blake (hereinafter "Blake" or "Defendant"), was admitted to the North Carolina State Bar in 1990.

3. The Complaint in this action was filed on October 19, 2016.

4. Defendant was served with the Summons and Complaint on November 16, 2016.

5. On December 19, 2016, Defendant filed a motion requesting additional time to answer or otherwise respond to the complaint.

6. On December 22, 2016, the Chair of the DHC Hearing Panel assigned to hear this case entered an order allowing Defendant until January 9, 2017 to file an answer.

7. Defendant failed to file an answer or any responsive pleading by the deadline established by 27 N.C. Admin. Code 1B § .0114(e) or by the date of the extension granted by the DHC.

8. Upon Plaintiff's motion, default was entered against Defendant by the Secretary of the State Bar on January 13, 2017.

9. Plaintiff filed a Motion for Order of Discipline on February 3, 2017 and served the motion on that date by depositing a copy of the same in the U.S. Mail in a postage prepaid envelope addressed to Defendant's address of record.

10. During all or part of the relevant periods referred to below, Defendant was 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 and was engaged in the practice of law in Wilson, North Carolina. At the time of the entry of this order, Defendant is administratively suspended for non-compliance with membership and Iolita requirements.

Estate Filings

11. At the relevant times herein, Blake maintained a general trust account for his law practice at Cornerstone Bank, account number ending in digits 3161 ("trust account") and an account at Cornerstone Bank which he used for personal expenses denominated "cost advance account," account number ending in digits 4003.

12. Blake and M. Paige Reece ("Reece") were appointed co-executors of the estate of Joseph C. Speight ("Speight Estate") on January 23, 2013, Wilson County file no. 13 E 47.

13. Reece, the decedent's step-daughter, lives out of state and agreed that Blake would handle the day to day business of the Speight Estate and the estate filings.

14. Blake did not file an inventory for the Speight Estate with the Wilson County Clerk of Superior Court within ninety days after qualifying as personal representative as required by law.

15. On or about June 7, 2013, the Clerk's office sent Blake a notice to file the inventory within thirty days.

16. Blake did not file the inventory within thirty days as required by the Clerk.

17. On June 2, 2014, Blake requested a sixty day extension of time to file the inventory and/or accounting and the Clerk's office granted the extension.

18. Blake did not file the inventory nor did he file an accounting within the extended time granted by the Clerk's office at Blake's request.

19. In a letter dated January 5, 2016, the Clerk informed Blake that he needed to complete the necessary filings and close the estate. The Clerk requested that Blake schedule an appointment with the Clerk on or before February 4, 2016.

20. Blake did not respond to the January 5th letter nor did he schedule an appointment with the Clerk.

21. Blake did not file an inventory, annual account, or final account for the Speight Estate with the Wilson County Clerk of Superior Court.

22. Blake maintained a dedicated trust account for the Speight Estate at Cornerstone Bank, account number ending in digits 5042 ("Estate account").

23. On July 2, 2014, Blake was the settlement agent for the sale of real property owned by the Speight Estate and referred to as the McKeel farm property located at 8041 Barte Bridge Road, Saratoga, North Carolina.

24. Blake deposited the \$360,838.71 received from the buyer of the McKeel farm property into his trust account.

25. From July 2, 2014 to August 26, 2014, Blake made disbursements from his trust account in accordance with the closing statement leaving a balance from the proceeds of the sale of the McKeel farm property of \$325,698.13.

26. Thereafter, Blake made numerous disbursements from the trust account, including numerous transfers to his "cost advance account" which were not attributed to any client, causing the trust account balance to fall below \$325,698.13, including on the following occasions:

(a) On October 30, 2015, Blake's trust account balance was \$81,392.48;

(b) On November 25, 2015, Blake's trust account balance was \$73,833.61;

(c) On December 31, 2015, Blake's trust account balance was \$46,210.09; and

(d) On January 29, 2016, Blake's trust account balance was \$42,733.30.

27. Blake used the Speight Estate funds for personal expenses.

28. Blake was not entitled to use the Speight Estate funds for personal expenses.

29. In an email dated January 14, 2016, Reece inquired of Blake regarding the whereabouts of the proceeds from the sale of the McKeel farm property.

30. In a reply email that same day, Blake stated: "The funds from the sale are in excess of \$315,000 and have remained in my trust account since the closing."

31. Blake's statement to Reece that the McKeel farm sale proceeds had remained in his trust account since the closing was false.

32. Reece became concerned about Blake's handling of the Speight Estate and contacted the State Bar in January 2016.

33. State Bar Deputy Counsel and a State Bar Investigator contacted Blake by phone on January 27, 2016.

34. In the January 27th phone conversation, Blake asserted to Deputy Counsel that the approximate \$300,000.00 from the sale of the McKeel farm property remained in his firm's trust account.

35. Blake indicated he was willing to provide his trust account bank statement to the State Bar to corroborate his assertion that the funds remained in trust.

36. Deputy Counsel sent Blake an email on January 27, 2016 following up on the conversation and requesting that Blake provide the most recent bank statement for his trust account, the client ledger for the Speight Estate, the settlement statement from the sale of the McKeel farm property, the proceeds of which Blake represented were in trust, 2013 Estate account bank records, 2014-2015 trust account bank records, and a quarterly reconciliation of his trust account for the fourth quarter of 2015.

37. On January 28, 2016, Blake responded to the email and stated he would provide most of what was requested by February 2, 2016.

38. On January 31, 2016, Blake emailed the State Bar numerous bank statements for the Estate account, Blake Law Firm, PLLC invoices for attorney's fees, a draft final accounting and other documents related to the Speight Estate. Blake did not, however, provide any bank statements for the trust account that purportedly contained the proceeds from the McKeel farm property sale.

39. In response to the State Bar's request for a quarterly reconciliation of his trust account for the fourth quarter of 2015, Blake provided a one page document listing clients and purported balances, but no indication of or comparison with the bank statement balance for the trust account. The document provided failed to contain all elements required in a quarterly reconciliation pursuant to Rule 1.15-3(d)(1), and continued to withhold the information sought by the State Bar concerning the balance of his trust account.

40. Deputy Counsel and a State Bar Investigator spoke with Blake on February 1, 2016 about the need for Blake to produce the most recent bank statement for the trust account which purportedly contained the McKeel farm property proceeds. Blake indicated he would provide it and stated he hoped to be able to get the trust account bank statement to the State Bar by mid-day the following day, February 2, 2016.

41. On February 1, 2016, Deputy Counsel sent Blake a confirmation email confirming the February 1st conversation.

42. On February 2, 2016, at about 8:02 am, Blake responded to the State Bar's confirmation e-mail by stating that his father was in recovery from surgery and that at some point on February 2, 2016 he would return to Wilson for a change of clothes and would send the requested documents at that time.

43. Deputy Counsel responded to Blake's email on February 2, 2016 and emphasized the need for him to provide, that day, "a complete and accurate copy" of the most recent trust account bank statement. Deputy Counsel also informed Blake that "if that bank statement fails to confirm your assertion that those sales proceeds for the Speight estate are in your trust account, and have been properly maintained in your bank account, the State Bar will seek a TRO..."

44. On February 3, 2016, Blake sent the State Bar an email stating that he had gone to the bank that morning and obtained "the attached from the bank reflecting the trust balance."

45. Attached to Blake's February 3rd email was a document reflecting that the balance in the trust account on February 3, 2016 at 1:14:08 pm was \$331,168.09.

46. Blake did not produce the most recent trust account bank statement as the State Bar had requested and as he had agreed to do.

47. Had Blake produced the trust account bank statement for January 2016 or December 2015, either statement would have shown that the Speight Estate funds from the sale of the McKeel farm property were not in the trust account as Blake had asserted to Reece and the State Bar.

48. On February 3, 2016, Blake transferred \$290,536.48 from his "cost advance account" to the trust account and \$380.45 from his operating account to the trust account.

49. Prior to Blake making the transfers referred to in the preceding paragraph, there was \$40,631.61 in his trust account.

50. Blake's transfers to the trust account on February 3rd produced a trust account balance of \$331,548.63.

51. Blake's transfers allowed him to provide the State Bar with a document showing a balance of \$331,168.09 in the trust account.

52. Blake made these transfers and provided a document showing that balance in an attempt to support his false statement that he had continuously maintained the McKeel farm sale proceeds in his trust account since the settlement date.

53. Blake misappropriated funds belonging to the Speight Estate from about November 2014 to February 2016.

54. On February 4, 2016, Blake consented to an order of preliminary injunction enjoining him from handling entrusted funds.

55. The consent order of preliminary injunction required Blake to produce trust account records requested by the State Bar.

56. On February 8, 2016, the State Bar requested that Blake submit complete bank records for his trust account and operating account for the time period of December 1, 2012-the date of production, including all original bank statements, original canceled checks (front and back), wire transfer confirmations (identifying each transfer by client's name), deposit tickets, and debit & credit memos. The State Bar requested that Blake furnish these documents no later than Wednesday, February 10, 2016.

57. On February 9, 2016, Blake requested an extension until February 17, 2016 to produce the records and the State Bar agreed to the extension.

58. Blake produced some of the requested bank records on February 11, 2016 and additional records on February 17, 2016. However, the records Blake produced were incomplete.

59. In addition to being incomplete, the records Blake provided in February 2016 were false. For example, he provided a purported reconciliation for May 2015 that showed that the Speight Estate had a balance of \$325,698.13 in his trust account when the bank statement he provided showed a trust account balance of \$273,329.05, far less than the amount he should have had for the Speight Estate.

Attorney Fees

60. In approximately December 2012, Blake engaged David Woodard ("Woodard"), an attorney with Connor, Bunn, Rogerson & Woodard, PLLC to handle some legal matters for the Speight estate.

61. In approximately April 2013, Blake joined Woodard's firm which then became known as Connor, Bunn, Rogerson, Woodard, Fleming & Blake, PLLC.

62. From February 2013 through September 2013, Blake disbursed estate funds from the Estate account to pay attorney's fees for Woodard's legal services.

63. The total amount Blake paid Woodard for his legal services through September 2013 was \$5,463.62.

64. Blake also disbursed funds from the Estate account by writing checks to Blake Law Firm which he identified as attorney's fees.

65. Blake provided Reece periodic invoices for his legal services covering the time period from April 1, 2013 through May 29, 2014.

66. The invoices Blake provided Reece for the time period of April 1, 2013 through May 29, 2014 in total indicated an amount of \$29,585.00 due to Blake for his legal services in addition to what was billed for Woodard's time.

67. From February 2013 through January 2014, however, Blake disbursed to Blake Law Firm from the Estate account checks in the following amounts:

| | |
|-------------------|-------------|
| February 28, 2013 | \$15,500.00 |
| April 19, 2013 | \$7,400.00 |
| May 3, 2013 | \$3,500.00 |
| May 10, 2013 | \$1,000.00 |
| July 11, 2013 | \$5,434.67 |
| July 18, 2013 | \$3,000.00 |
| October 7, 2013 | \$8,237.77 |
| October 14, 2013 | \$4,678.68 |
| October 31, 2013 | \$10,000.00 |
| November 8, 2013 | \$10,000.00 |
| November 8, 2013 | \$4,063.34 |
| November 20, 2013 | \$6,500.00 |
| January 21, 2014 | \$17,053.50 |

68. Blake disbursed to himself a total of \$96,367.96, which he identified as attorney's fees.

69. On January 31, 2016, Blake provided the State Bar purported invoices for the Speight Estate dated March 31, 2013, May 30, 2013, June 30, 2013, July 30, 2013, August 30, 2013, September 30, 2013, October 31, 2013, November 30, 2013, December

31, 2013, January 28, 2014, February 28, 2014, March 31, 2014, April 30, 2014, May 30, 2014, June 30, 2014, July 30, 2014, December 31, 2014, July 31, 2015, and December 31, 2015.

70. The invoices Blake provided the State Bar:

- (a) were on Blake Law Firm, PLLC letterhead;
- (b) gave a total number of hours per month with no description of work performed;
- (c) did not include billing for legal assistants' time; and
- (d) billed his time at \$300.00 an hour.

71. The invoices Blake provided Reece:

- (a) were on the letterhead of Connor, Bunn, Rogerson, Woodard, Fleming & Blake, PLLC, Blake Law Firm, PLLC, or Blake Curtner, PLLC;
- (b) contained detailed descriptions of work performed and time expended for the work;
- (c) included billing for legal assistants' time; and
- (d) billed his time at \$200.00 an hour.

72. In addition, the total of hours per month and the amount of Blake's fee differed between the two sets of invoices. For example, the invoice Blake provided Reece for the month of April 2013 showed that he worked 41.4 hours for a total of \$8,280.00 whereas the invoice he provided the State Bar for April 2013 showed that he worked 34 hours for a total of \$10,200.00.

73. The invoices Blake provided Reece did not correspond with the actual payments to Blake.

74. At the time Blake provided to the State Bar the invoices described in paragraph 63 above, he provided no explanation for the invoices being different from the invoices he had provided Reece.

75. Blake created the invoices he provided to the State Bar to correspond with the amounts he had disbursed to himself from the Speight Estate funds and to mislead the State Bar.

76. In an email to Reece dated January 26, 2016, Blake falsely stated: "I haven't been paid any attorney fees since December 2013."

77. In fact, Blake paid Blake Law Firm \$17,053.50 on January 21, 2014.
78. On the proposed final account for the Speight Estate which Blake prepared and provided to the State Bar in late January 2016, he represented that the Speight Estate had a balance of \$346,618.15.
79. In January 2016, Reece repeatedly asked Blake for an itemized accounting of all legal fees he had billed and collected from the estate since January 2013.
80. Blake did not comply with Reece's request.
81. Blake did not provide invoices to Reece or otherwise notify Reece that he had taken over \$96,000.00 in attorney fees from the estate.
82. In August of 2013, L.P. signed a contract for legal services with Connor, Bunn, Woodard, Fleming & Blake, PLLC ("the firm") concerning representation in a personal injury case arising from an automobile accident involving the vehicle L.P. was driving and another vehicle.
83. In accordance with the contract, the firm was entitled to 25% of any amount recovered if L.P.'s claim was settled prior to a lawsuit being filed and 33 and 1/3% of any amount recovered if the case was settled after the filing of a lawsuit.
84. In January 2015, Blake received a \$30,000.00 settlement check from Universal Insurance Company, the liability carrier for the driver of the vehicle involved in the accident with L.P.
85. The \$30,000.00 check was made payable to Paul N. Blake, III Law Firm PLLC, and L.P.
86. Of the \$30,000.00 of L.P.'s settlement funds, Blake was entitled at most to \$10,000.00.
87. Blake informed L.P. that he would deposit the check, which contained funds due Blake for his attorney's fee and funds due L.P. in settlement of his claim, into his trust account pending further action regarding an underinsured motorist claim.
88. Blake did not deposit the \$30,000.00 check into his trust account.
89. Instead, Blake directed his paralegal to deposit the check into his "cost advance account."
90. Blake's paralegal deposited the \$30,000.00 check into his "cost advance account" on January 20, 2015.
91. Between January 20, 2015 and February 27, 2015, Blake made numerous disbursements from the "cost advance account," to himself and for his benefit, including nine checks totaling \$6,212.00 written to cash and numerous internet transfers totaling

\$8,476.60 to his personal bank account with Cornerstone Bank, account number ending in digits 8191.

92. By February 27, 2015, the balance in the “cost advance account” was \$6,448.00.

93. By depositing L.P.’s funds into his cost advance account, and then making transfers to his personal bank account and writing checks for cash, Blake misappropriated L.P.’s funds.

94. In May of 2015, L.P. requested his funds from the settlement and Blake gave him a check for \$20,000.00. The check was written on an account that Blake maintained with First South Bank that was not a trust account.

95. In November 2012, Blake received a check for \$134,167.76 which was to be held by Blake in escrow pending the outcome of a civil action in which Blake represented the plaintiff.

96. The \$134,167.76 represented entrusted funds which Blake was required to deposit and maintain in an attorney trust account.

97. From November 2012 until September 2015 when the \$134,167.76 should have been held in escrow in Blake’s trust account, the balance in the trust account fell well below \$134,167.76, including as follows:

- (a) On May 9, 2013, Blake’s trust account balance was \$44,445.68;
- (b) On October 1, 2013, Blake’s trust account balance was \$37,641.84; and
- (c) On June 2, 2014, Blake’s trust account balance was \$11,699.09.

98. Blake failed to maintain the \$134,167.76 in trust as required by the escrow Agreement.

99. The lawsuit referred to in paragraph 95 was tried and the opposing party prevailed.

100. Upon the completion of the lawsuit, the opposing party was entitled to the \$134,167.76.

101. On September 15, 2015, Blake disbursed \$134,167.76 by writing a check drawn on his “cost advance account” and made payable to the opposing party and his attorney.

102. On September 15, 2015, Blake made an internet transfer of \$139,000.00 from his trust account to his “cost advance account.”

103. Prior to Blake making the transfer from his trust account to his cost advance account referred to in paragraph 102, there was a balance of \$365.88 in the cost advance account.

104. Blake used the funds transferred from his trust account to his cost advance account to make the \$134,167.76 payment to the opposing party.

105. Blake had not maintained these funds in escrow in his trust account, as described in paragraph 97.

106. Blake misappropriated other entrusted funds in his trust account when he transferred \$139,000.00 from his trust account to his cost advance account and used those funds to make the payment due to the opposing party.

107. Prior to the \$139,000.00 transfer from the trust account to the cost advance account, the trust account balance was \$247,317.71.

108. The transfer caused the trust account balance to fall to \$108,317.71.

109. Blake should have had at least \$330,470.23 in his trust account for other clients when he made the \$139,000.00 transfer to his "cost advance account."

Based upon the pleadings, Defendant's default, and the foregoing Findings of Fact, the Hearing Panel enters the following

CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Panel, and the Panel has jurisdiction over Defendant and the subject matter of this proceeding.

2. Defendant has failed to file any responsive pleading in this matter and a proper entry of default has been entered by the Secretary of the State Bar.

3. The allegations in Plaintiff's complaint are deemed admitted.

4. 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)(3) for failure to answer the formal inquiry or complaint issued by or in the name of the North Carolina State Bar in a disciplinary matter, and pursuant to N.C. Gen. Stat. § 84-28(b)(2) for violation of the following Rules of Professional Conduct in effect at the time of the conduct:

- (a) By knowingly disbursing entrusted funds to which he was not entitled from his trust account to his "cost advance account," and using entrusted funds to pay personal expenses, Defendant failed to hold and maintain separate from his property the entrusted funds of his clients in violation of

Rule 1.15-2(a), used entrusted funds for his personal benefit in violation of Rule 1.15-2(j), committed criminal acts (embezzlement) that reflect adversely on his honesty, trustworthiness, or fitness as a lawyer in other respects in violation of Rule 8.4(b), engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation in violation of Rule 8.4(c), and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);

- (b) By falsely informing his co-executor in 2016 that the funds from the sale of the McKeel farm property had remained in his trust account since the closing, Defendant engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c), and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
- (c) By falsely informing his co-executor in January 2016 that he had not paid himself any attorney fees since December 2013, Defendant engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c), and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
- (d) By falsely informing the State Bar in January 2016 that the funds from the sale of the McKeel farm property remained in his trust account, Defendant knowingly made a false statement of material fact to a disciplinary authority in violation of Rule 8.1(a), and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c);
- (e) By providing the State Bar the document reflecting the trust account balance on February 3, 2016 as inflated with his transfers and not the most recent bank statement he had agreed to provide and which would have shown that the Speight Estate funds had not been properly maintained in his trust account, Defendant engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c), and knowingly failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b);
- (f) By concealing from his co-executor the amount of Speight Estate funds he had paid himself for attorney fees, Defendant engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c), and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
- (g) By producing to the State Bar fabricated invoices that were significantly different from the invoices he provided Reece, Defendant engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c);

- (h) By failing to timely file the inventory and accounts in the matter for which he was a fiduciary, failing to comply with the clerk's orders, and failing to meet with the clerk as requested, Defendant failed to render inventories and accountings of fiduciary funds to judicial officials or other persons as required by law in violation of Rule 1.15-3(f), and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
- (i) By failing to provide the State Bar with all of the bank records requested, Defendant knowingly failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b);
- (j) By depositing mixed funds into the "cost advance account" rather than a trust account, Defendant failed to hold and maintain separate from his property the entrusted funds of his client in violation of Rule 1.15-2(a), failed to deposit trust funds in a trust account in violation of Rule 1.15-2(b), and failed to deposit funds belonging to the lawyer received in combination with funds belonging to the client or other persons into a trust account in violation of Rule 1.15-2(g);
- (k) By depositing L.P.'s funds into his "cost advance account" and disbursing L.P.'s funds to himself and for his benefit, Defendant used entrusted funds for his personal benefit in violation of Rule 1.15-2(j), committed criminal acts (embezzlement) that reflect adversely on his honesty, trustworthiness, or fitness as a lawyer in other respects in violation of Rule 8.4(b), and engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation in violation of Rule 8.4(c);
- (l) By failing to maintain in trust the funds he was to hold in escrow, Defendant failed to deposit, disburse, and distribute entrusted property in accordance with Rule 1.15 in violation of Rule 1.15-2(a), and used entrusted property for the benefit of persons other than the legal or beneficial owner of the property in violation of Rule 1.15-2(j);
- (m) By using other clients' funds in his trust account to make the payment due to the opposing party, Defendant failed to hold and disburse entrusted property in accordance with Rule 1.15 in violation of Rule 1.15-2(a), and used entrusted property for the benefit of persons other than the legal or beneficial owner of the property in violation of Rule 1.15-2(j);
- (n) By misappropriating the funds for his personal benefit that he should have held in escrow, Defendant committed criminal acts (embezzlement) that reflect adversely on his honesty, trustworthiness, or fitness as a lawyer in other respects in violation of Rule 8.4(b), and engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation in violation of Rule 8.4(c); and

- (o) By misappropriating other entrusted funds in his trust account to pay the amount due to the opposing party, Defendant committed criminal acts (embezzlement) that reflect adversely on his honesty, trustworthiness, or fitness as a lawyer in other respects in violation of Rule 8.4(b), and engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation in violation of Rule 8.4(c).

5. Section .0114(f) of the North Carolina State Bar Discipline and Disability Rules provides that, upon entry of the defendant's default by the Secretary, the allegations in the complaint will be deemed admitted. The State Bar counsel may then apply to the hearing panel for a default order imposing discipline, and "the hearing panel will thereupon enter an order, make findings of fact and conclusions of law based on the admissions, and order the discipline deemed appropriate." The hearing panel may, but is not required, to hear additional evidence before entering an order of discipline. 27 N.C. Admin. Code § 1B.0114(f).

6. Knowing and willful misappropriation of money by a fiduciary constitutes the crime of embezzlement under N.C. Gen. Stat. § 14-90. Embezzlement is a felony.

7. Defendant knowingly and willfully misappropriated entrusted funds on multiple occasions over several years.

8. Additional evidence is not necessary to determine the appropriate discipline in this case.

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 – 109 above are reincorporated as if set forth herein.

2. Defendant diverted entrusted funds that should have been available for clients and others and converted them to his own use.

3. Defendant misappropriated entrusted funds over the course of several years to satisfy personal financial needs throughout that period of time.

4. Defendant placed his own personal interests over those for whom he should have maintained entrusted funds.

5. Not only did Defendant misappropriate funds, he attempted to cover up his wrongdoing by failing to produce documents requested by the State Bar that would have confirmed misappropriation and fabricating documents that he produced to the State Bar.

6. Defendant, by engaging in conduct involving misappropriation for a substantial period of time and by engaging in deceit in his dealings with his co-executor and the State Bar has shown himself to be untrustworthy and his misconduct had a negative impact on third parties and the administration of justice.

7. The perception of the profession in the eyes of clients and the public is negatively affected by an attorney's misappropriation of entrusted funds.

8. Defendant has no prior record of disciplinary offenses.

9. Defendant has been licensed to practice law since 1990. With his degree of experience, Defendant should have known better than to engage in these acts that have led to the discipline imposed in this order.

10. The Hearing Panel finds by clear, cogent, and convincing evidence any additional facts that may be contained in the conclusions regarding discipline set out below.

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.0114(w)(1), (2) and (3) and determined that the following factors are applicable:

27 N.C. Admin. Code § 1B.0114(w)(1) - Suspension or Disbarment Factors:

- (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 those of his clients;
- (d) Factor (E), Negative impact of Defendant's actions on client's or public's perception of the profession;
- (e) Factor (f), Negative impact on the administration of justice;

(f) Factor (H), Negative impact on third parties;

(g) Factor (I), Acts of dishonesty, misrepresentation, deceit or fabrication;

27 N.C. Admin. Code § 1B.0114(w)(2) - Disbarment Factors:

(h) Factor (A), Acts of dishonesty, misrepresentation, deceit or fabrication;

(i) Factor (C), Misappropriation or conversion of assets of any kind to which Defendant or recipient was not entitled, whether from a client or any other source;

(j) Factor (D), Commission of a felony;

27 N.C. Admin. Code § 1B.0114(w)(3) - General Factors:

(k) Factor (A), No prior record of disciplinary offenses;

(l) Factor (C), Dishonest or selfish motive;

(m) Factor (F), A pattern of misconduct;

(n) Factor (G), Multiple offenses;

(o) Factor (K), Absence of full and free disclosure to the Hearing Panel or cooperative attitude towards the proceedings;

(p) Factor (N) Submission of false evidence, false statements, or other deceptive practices during the disciplinary process; and

(q) Factor (S), Substantial degree of experience in the practice of law.

3. The factors present under 27 N.C. Admin. Code § 1B.0114(w)(1) and (2) support imposition of disbarment in this case.

4. Defendant caused significant harm to his clients and others for whom he should have maintained entrusted funds by misappropriating their entrusted funds.

5. 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. Defendant's misappropriation caused harm to the standing of the legal profession, undermining trust and confidence in lawyers and the legal system.

6. Defendant's repeated commission of criminal acts reflecting adversely on his honesty, trustworthiness or fitness as a lawyer caused potential significant harm to the legal profession, in that criminal conduct tends to bring the legal profession into disrepute.

7. Defendant's failure to participate in this disciplinary proceeding before the DHC results in potential significant harm to the profession and to the public. The legal profession is entrusted with the privilege of self-regulation. The State Bar can only regulate the profession if its members participate. Defendant's failure to participate in this disciplinary proceeding before the DHC shows an unacceptable disregard for the regulatory authority of the State Bar. Defendant's failure to participate in the profession's self-regulation impedes effective self-regulation and jeopardizes the privilege of the profession to remain self-regulating.

8. The Hearing Panel has considered lesser alternatives and finds that suspension of Defendant's license or a public censure, reprimand, or admonition would not be sufficient discipline because of the gravity of the actual and potential harm to his clients, the public, the administration of justice, and the legal profession caused by Defendant's conduct, and the threat of potential significant harm Defendant poses to the public.

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

- (a) Defendant repeatedly engaged in criminal acts reflecting adversely on his honesty, trustworthiness or fitness as a lawyer, and abused the trust placed in him by his clients and others. Misappropriation of entrusted funds is among the most serious misconduct in which an attorney can engage, and demonstrates the attorney is not trustworthy;
- (b) Defendant's dishonesty in his dealings with his co-executor and his attempts to deceive the State Bar during the disciplinary process further demonstrate his untrustworthiness;
- (c) Entry of an order imposing less serious discipline would fail to acknowledge the seriousness of the offenses Defendant committed and would send the wrong message to attorneys and the public regarding the conduct expected of members of the North Carolina State Bar; and
- (d) The protection of the public and the legal profession requires that Defendant not be permitted to resume the practice of law until he demonstrates the following: that he has reformed; that he understands his obligations to his clients, the public, and the legal profession; and that permitting him to practice law will not be detrimental to the public or the integrity and standing of the legal profession or the administration of

justice. Disbarred lawyers are required to make such a showing before they may resume practicing law.

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 grants Plaintiff's Motion for Order of Discipline and enters the following

ORDER OF DISCIPLINE

1. Defendant, Paul N. Blake, III, is hereby DISBARRED from the practice of law.
2. Defendant shall surrender his North Carolina law license and membership card to the Secretary of the North Carolina State Bar no later than 30 days following service of this order upon Defendant.
3. Defendant shall pay the fees and the costs of this proceeding as assessed by the Secretary of the North Carolina State Bar. Defendant must pay the fees and costs within 30 days of service upon him of the statement of fees and costs by the Secretary.
4. Defendant shall comply with all provisions of 27 N.C. Admin. Code § 1B.0124 of the North Carolina State Bar Discipline & Disability Rules.
5. Within 15 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. This address must be a physical address at which Defendant maintains a consistent presence and receives mail. Defendant must keep this information current with the State Bar, providing updated information to the State Bar within 15 days of any change.
6. Defendant shall promptly return client files in his possession, custody, or control to clients upon request, within 5 days of receipt of such request. Defendant will be deemed to have received any such request 3 days after the date such request is sent to Defendant, if the request is sent to the address Defendant provided the State Bar pursuant to the preceding paragraph or to Defendant's address of record with the State Bar if Defendant fails to provide another address pursuant to the preceding paragraph.

15 Signed by the Chair with the consent of the other Hearing Panel members, this the day of February, 2017.


Donald C. Prentiss Chair
Disciplinary Hearing Panel