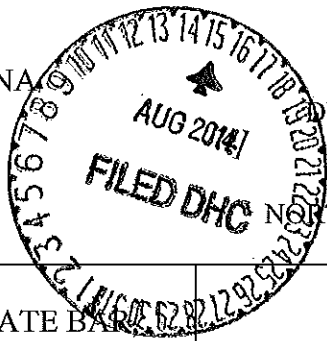


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING  
COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
13 DHC 12

THE NORTH CAROLINA STATE BAR

Plaintiff

v.

CHRISTOPHER V. VAUGHAN, Attorney,

Defendant

ORDER OF DISBARMENT

THIS MATTER coming before the undersigned Chair of The Disciplinary Hearing Commission (DHC) pursuant to 27 N.C.A.C. 1B § .0117(d) upon an affidavit of surrender of license executed by Christopher V. Vaughan ("Vaughan") dated August 14, 2014 and filed with the Chair of the DHC on August 14, 2014.

Based upon the pleadings and the record, the undersigned makes 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, Christopher V. Vaughan ("Vaughan"), was admitted to the North Carolina State Bar in 2001, 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. The North Carolina State Bar filed a formal complaint against Defendant on April 3, 2013 and an amended complaint on March 24, 2014. The amended complaint contains seven claims for relief with allegations that Defendant committed numerous violations of the Rules of Professional Conduct. The conduct set out in the First Claim for Relief constitutes violations of Rules 1.3, 8.1(a), 8.1(b), 8.4(c), and 1.5(f)(2). The conduct set out in the Second Claim for Relief constitutes violations of Rules 1.3, 8.1(a), 8.1(b) and 8.4(c). The conduct set out in the Third Claim for Relief constitutes violations of Rules 8.1(a), 8.1(b), and 8.4(c). The conduct set out in the Fourth Claim for Relief constitutes a violation of Rule 8.1(b). The conduct set out in the Fifth Claim for Relief constitutes violations of Rules 1.3, 1.4(a), 1.15-2(a), 1.15-2(b), 1.15-2(g), 1.15-2(j),

8.1(b), 8.4(b), 8.4(c), 8.4(d), and 8.4(g). The conduct set out in the Sixth Claim for Relief constitutes violations of Rules 1.4(a)(3), 1.3, 1.15(m), 8.4(b), 8.4(c), 8.4(d) and 8.4(g), 1.15-2(a), 1.15-2(b), 1.15-2(g), 1.15-2(j), and 8.1(b). The conduct set out in the Seventh Claim for Relief constitutes violations of Rules 5.5(a), 1.16(a), 1.7(a)(1), 8.4(c), 8.4(d), 1.16(d), and 1.3. The conduct set out in the seven claims for relief included in the amended complaint constitutes violations of the Rules of Professional Conduct and as such constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) and § 84-28(b)(3).

4. Defendant has indicated his consent to disbarment by filing an affidavit with the Chair of the DHC. The affidavit meets all requirements set forth in 27 N.C.A.C. 1B § .0117(a)(1), (2), (3), (4) and (d).

Based upon the foregoing Findings of Fact the undersigned makes the following

#### CONCLUSIONS OF LAW

1. 27 N.C.A.C. 1B § .0108 provides that the Chair of the DHC has the power and duty to enter orders disbarring members by consent.

2. 27 N.C.A.C. 1B § .0117(d) states that the Chair of the DHC will accept the surrender and issue an order of disbarment upon determination that an affidavit of surrender filed pursuant to this subsection meets the requirements set out in 27 N.C.A.C. 1B § .0117(a)(1), (2), (3), (4).

3. Defendant's affidavit meets all requirements set forth in 27 N.C.A.C. 1B §.0117(a)(1), (2), (3), (4) and (d) and the facts upon which the affidavit is predicated warrant Defendant's disbarment.

Based upon the foregoing Findings of Fact and Conclusions of Law, the undersigned Chair of the Disciplinary Hearing Commission enters the following

#### ORDER

1. The surrender of the license of Christopher V. Vaughan is hereby accepted.

2. Christopher V. Vaughan is DISBARRED from the practice of law in North Carolina.

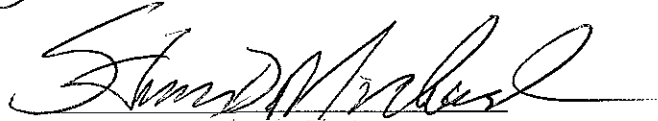
3. The effective date of this order is the date of the filing of this order with the clerk of the Disciplinary Hearing Commission.

4. Christopher V. Vaughan shall comply with the provisions of 27 N.C.A.C. 1B § .0117(c) and § .0124 of the State Bar Discipline and Disability Rules and shall surrender his license and permanent membership card to the Secretary of the North

Carolina State Bar along with the affidavit required by 27 N.C.A.C. 1B § .0124 of the State Bar Discipline and Disability Rules.

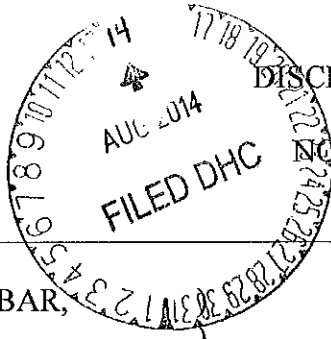
5. The costs of this action and administrative fees are taxed against Defendant.

This the 15<sup>th</sup> day of August, 2014.



Steven D. Michael, Chair  
Disciplinary Hearing Commission

WAKE COUNTY  
NORTH CAROLINA



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
13 DHC 12

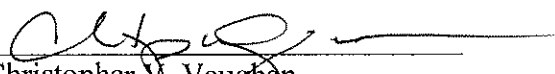
THE NORTH CAROLINA STATE BAR,  
PETITIONER,  
  
v.  
  
CHRISTOPHER V. VAUGHAN, ATTORNEY,  
RESPONDENT.

AFFIDAVIT OF SURRENDER

CHRISTOPHER V. VAUGHAN, being first duly sworn, deposes and says as follows:

1. I desire to resign and hereby tender my license to practice law in North Carolina.
2. My resignation is freely and voluntarily rendered, and is not the result of coercion or duress. I am fully aware of the implications of submitting my resignation.
3. I desire to resign and hereby tender my license to practice law in North Carolina pursuant to the provisions of Section .0117(d) of Subchapter 1B of the Rules and Regulations of the North Carolina State Bar.
4. I am aware that there is presently pending a complaint before the Disciplinary Hearing Commission, file number 13 DHC 12 which contains allegations that I have been guilty of misconduct, the nature of which is specifically set forth in the State Bar's amended complaint. A copy of the State Bar's amended complaint is attached and is hereby incorporated as if fully set out herein.
5. I acknowledge that the material facts which support the violations of the Rules of Professional Conduct in each of the State Bar's seven claims for relief in the amended complaint are true.
6. My resignation is being submitted because I know that I cannot successfully defend against these pending allegations.

This is the 14<sup>th</sup> day of August, 2014.

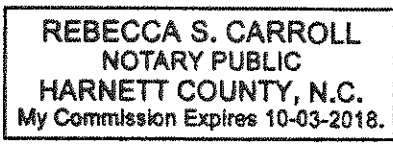
  
\_\_\_\_\_  
Christopher V. Vaughan

I, Rebecca S. Carroll, Notary Public of the County of Harnett, State of North Carolina, certify that Christopher V. Vaughan personally appeared before me this day, was sworn, attested that the foregoing Affidavit is true and accurate of his own personal knowledge, and executed the foregoing Affidavit.

This the 14<sup>th</sup> day of August, 2014.

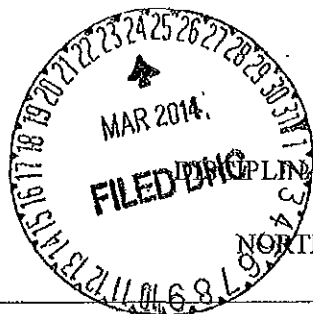
Rebecca S. Carroll  
Notary Public

My commission expires: 10-3-2018



STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
13 DHC 12

THE NORTH CAROLINA STATE BAR,  
Plaintiff

v.

CHRISTOPHER V. VAUGHAN, Attorney,  
Defendant

AMENDED COMPLAINT

Plaintiff, complaining of Defendant, alleges and says:

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, Christopher V. Vaughan ("Defendant"), was admitted to the North Carolina State Bar in 2001 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.

Upon information and belief:

3. During all or part of the relevant periods referred to herein, Defendant was engaged in the practice of law in the State of North Carolina and maintained a law office in Raeford, Hoke County, North Carolina.

**FIRST CLAIM FOR RELIEF**

4. Paragraphs 1-3 are re-alleged and incorporated as if fully set forth herein.

5. In or around March 2011, D.M. paid Defendant \$100.00 of a \$300.00 fee Defendant charged D.M. to represent him on a speeding charge.

6. Defendant made some appearances in court to represent D.M. but ultimately failed to appear in court to represent him, failed to resolve D.M.'s speeding case, and failed to refund the \$100.00 D.M. paid him.

7. In October 2011, D.M. filed a petition for fee dispute resolution against Defendant with the N.C. State Bar Fee Dispute Resolution Program, file number 11FD0554.

8. On or about October 31, 2011, the State Bar sent Defendant a Notice of Mandatory Fee Dispute Resolution in file number 11FD0554 by certified mail to the address listed in the State Bar Membership database. Defendant was required to respond to the notice within fifteen days of receiving the letter.

9. The notice was signed for on November 2, 2011 by a member of Defendant's office staff.

10. Defendant did not respond to the notice within fifteen days as required.

11. As a result of Defendant's failure to respond to the notice or to participate in the Fee Dispute Resolution Program, the State Bar opened a grievance file against Defendant in this matter, grievance file number 11G1396.

12. On or about February 14, 2012, the State Bar sent a Letter of Notice to Defendant by certified mail to the address listed in the State Bar Membership database. Defendant was required to respond to the Letter of Notice within fifteen days of receiving the letter.

13. The Letter of Notice was signed for on February 16, 2012 by a member of Defendant's office staff.

14. Defendant did not respond to the Letter of Notice in grievance file number 11G1396 within fifteen days of receipt as required.

15. On or about March 9, 2012, the State Bar sent Defendant a follow up letter asking that Defendant respond to the Letter of Notice no later than March 21, 2012.

16. Defendant did not respond to the Letter of Notice by March 21, 2012.

17. On June 29, 2012, a State Bar investigator personally served Defendant with the Letter of Notice in 11G1396. Defendant was required to respond to the Letter of Notice within fifteen days of receiving the letter.

18. Defendant did not respond to the Letter of Notice in grievance file number 11G1396 within fifteen days of receipt as required.

19. On September 11, 2012, Defendant appeared at the North Carolina State Bar in response to a subpoena issued pursuant to 27 N.C. Admin. Code Chapter 1, Subchapter B § .0112(f).

20. On September 11, 2012, Defendant provided the State Bar with a response to the Letter of Notice in 11G1396. The response was dated July 11, 2012.

21. In his response to the Letter of Notice, Defendant stated that he had refunded D.M.'s \$100.00 on March 1, 2012.

22. D.M. passed away on December 1, 2011.

23. Deputy Counsel wrote Defendant a letter dated September 13, 2012 asking him to explain how he could have refunded D.M.'s money when D.M. was deceased.

24. Defendant did not respond to that letter.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) and (b)(3) in that Defendant violated the Rules of Professional Conduct in effect at the time of the conduct as follows:

- (a) By failing to appear in court to represent his client, D.M., Defendant failed to act with reasonable diligence in representing a client in violation of Rule 1.3;
- (b) By failing to timely respond to the Letter of Notice in 11G1396, Defendant knowingly failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b);
- (c) By representing to the State Bar in response to the Letter of Notice in 11G1396 that he had refunded \$100.00 to D.M. at a time when D.M. was deceased, Defendant knowingly made a false statement of material fact in connection with a disciplinary matter in violation of Rule 8.1(a); engaged in conduct involving dishonesty, deceit, or misrepresentation in violation of Rule 8.4(c); and
- (d) By failing to respond to the Notice of Mandatory Fee Dispute Resolution, Defendant failed to participate in good faith in the fee dispute resolution process in violation of Rule 1.5(f)(2).

#### **SECOND CLAIM FOR RELIEF**

25. Paragraphs 1-24 are re-alleged and incorporated as if fully set forth herein.

26. On or about December 16, 2010, M.H. paid Defendant \$150.00 to represent her on a speeding charge.

27. Defendant failed to provide the agreed upon representation and as result of Defendant's failure to appear in court to represent M.H., the court entered a failure to appear against M.H.

28. The Clerk of Superior Court notified the North Carolina Department of Motor Vehicles that M.H. had failed to appear in court and as a result, the North Carolina Department of Motor Vehicles revoked M.H.'s driver's license.

29. In May 2012, M.H. filed a petition for fee dispute resolution with the N.C. State Bar Fee Dispute Resolution Program, file number 12FD0266.

30. On or about May 31, 2012, the State Bar sent Defendant a Notice of Mandatory Fee Dispute Resolution in file number 12FD0266 by certified mail to the address listed in the State Bar Membership database. Defendant was required to respond to the notice within fifteen days of receiving the letter.

31. Defendant personally signed for the Notice of Mandatory Fee Dispute Resolution on or about June 1, 2012.

32. Defendant failed to respond to the notice within fifteen days of receipt as required.

33. On or about June 21, 2012, the State Bar's Facilitator of the Fee Dispute Resolution Program wrote Defendant informing him that he had not timely responded to the fee dispute and informing him that if he did not respond within one week, the matter would be turned over to the grievance committee.

34. Defendant did not respond to the letter.

35. As a result of Defendant's failure to respond and participate in the Fee Dispute Resolution Program, the State Bar opened a grievance against Defendant in this matter, file number 12G0655.

36. On or about August 1, 2012, the State Bar sent a Letter of Notice to Defendant by certified mail to the address listed in the State Bar Membership database. Defendant was required to respond to the Letter of Notice within fifteen days of receiving the letter.

37. The Letter of Notice was signed for on August 3, 2012 by a member of Defendant's office staff.

38. Defendant did not respond to the Letter of Notice in grievance file number 12G0655 within fifteen days of receipt as required.

39. On September 11, 2012, Defendant appeared at the North Carolina State Bar in response to a subpoena issued pursuant to 27 N.C. Admin. Code Chapter 1, Subchapter B § .0112(f).

40. On September 11, 2012, Defendant acknowledged to State Bar Deputy Counsel Fern Gunn Simeon that he had failed to handle M.H.'s case. Defendant also informed Deputy Counsel that he had refunded M.H.'s \$150.00, paid her reinstatement fee, and gotten the driving while license revoked charge dismissed.

41. Defendant did not refund M.H.'s \$150.00, pay her reinstatement fee, or get the driving while license revoked charge dismissed.



THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) and (b)(3) in that Defendant violated the Rules of Professional Conduct in effect at the time of the conduct as follows:

- (a) By failing to appear in court to represent his client, M.H., Defendant failed to act with reasonable diligence in representing a client in violation of Rule 1.3;
- (b) By failing to timely respond to the Letter of Notice in 12G0655, Defendant knowingly failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b);
- (c) By representing to the State Bar in response to the Letter of Notice that he had refunded M.H.'s \$150, paid her reinstatement fee, and gotten the driving while license revoked charge dismissed, Defendant knowingly made a false statement of material fact in connection with a disciplinary matter in violation of Rule 8.1(a), and engaged in conduct involving dishonesty, deceit, or misrepresentation in violation of Rule 8.4(c); and
- (d) By failing to respond to the Notice of Mandatory Fee Dispute Resolution, Defendant failed to participate in good faith in the fee dispute resolution process in violation of Rule 1.5(f)(1).

### **THIRD CLAIM FOR RELIEF**

42. Paragraphs 1-41 are re-alleged and incorporated as if fully set forth herein.

43. On or about February 3, 2011, R.L. filed a pro se motion for appropriate relief in Hoke County Superior Court.

44. On October 18, 2011, the Honorable Richard T. Brown ordered a hearing on R.L.'s motion for appropriate relief and appointed Defendant to represent R.L.

45. On or about February 14, 2012, R.L. filed a grievance with the State Bar against Defendant, file number 12G0288, alleging that he had inadequate communication from Defendant about his matter.

46. A State Bar employee with the Attorney-Client Assistance Program made numerous attempts to contact Defendant by phone, e-mail, and U.S. Mail but Defendant did not respond.

47. On or about April 10, 2012, the State Bar sent Defendant a Letter of Notice in 12G0288 regarding the grievance filed by R.L. by certified mail to the address listed in the State Bar Membership database. Defendant was required to respond to the Letter of Notice within fifteen days of receiving the letter.

48. The Letter of Notice was signed for on April 11, 2012 by a member of Defendant's office staff.

49. Defendant failed to respond to the Letter of Notice within fifteen days of receipt as required.

50. On September 11, 2012, Defendant appeared at the North Carolina State Bar in response to a subpoena issued pursuant to 27 N.C. Admin. Code Chapter 1, Subchapter B § .0112(f).

51. On September 11, 2012, Defendant provided the State Bar with a response to the Letter of Notice in 12G0288. The response was dated July 11, 2012.

52. In his response, Defendant asserted that there had been a hearing on the motion for appropriate relief and intimated that he had completed his representation of R.L.

53. At the time Defendant submitted his response to the State Bar, there had not been a hearing on R.L.'s motion for appropriate relief nor had the Defendant completed his representation of R.L.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) and (b)(3) in that Defendant violated the Rules of Professional Conduct in effect at the time of the conduct as follows:

- (a) By failing to timely respond to the Letter of Notice in grievance file number 12G0288, Defendant knowingly failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b); and
- (b) By representing to the State Bar in response to the Letter of Notice that there had been a hearing on R.L.'s motion for appropriate relief when there had not been a hearing and by intimating that he had completed his representation of R.L. when he had not, Defendant knowingly made a false statement of material fact in connection with a disciplinary matter in violation of Rule 8.1(a), and engaged in conduct involving dishonesty, deceit, or misrepresentation in violation of Rule 8.4(c).

#### **FOURTH CLAIM FOR RELIEF**

54. Paragraphs 1-53 are re-alleged and incorporated as if fully set forth herein.

55. On or about May 12, 2011, T.M. filed a grievance against Defendant with the State Bar, grievance file number 11G0583.

56. On or about May 17, 2011, the State Bar sent Defendant a Letter of Notice in 11G0583, regarding the grievance filed by T.M. by certified mail to Defendant's home address. Defendant was required to respond to the Letter of Notice within fifteen days of receiving the letter.

57. The Letter of Notice in grievance file number 11G0583 was returned to the State Bar unclaimed on June 13, 2011.

58. On or about June 14, 2011, the State Bar sent the Letter of Notice in grievance file number 11G0583 to the Cumberland County Sheriff for service on Defendant at his home address.

59. On or about June 20, 2011, the Letter of Notice in grievance file number 11G0583 was returned unserved.

60. On or about July 29, 2011, the State Bar again sent Defendant a Letter of Notice in grievance file number 11G0583 regarding the grievance filed by T.M. by certified mail to the address listed in the State Bar Membership database. Defendant was required to respond to the Letter of Notice within fifteen days of receiving the letter.

61. The Letter of Notice in grievance file number 11G0583 was signed for on August 1, 2011 by a member of Defendant's office staff.

62. Defendant did not respond to the Letter of Notice in grievance file number 11G0583 within fifteen days of receipt as required.

63. On or about September 2, 2011, the State Bar sent Defendant a follow up letter asking that Defendant respond to the Letter of Notice in grievance file number 11G0583 no later than September 16, 2011.

64. In a letter dated September 13, 2011 and received by the State Bar on September 22, 2011, Defendant responded to the Letter of Notice in grievance file number 11G0583.

65. On or about January 23, 2012, G.S. filed a grievance against Defendant with the State Bar, grievance file number 12G0289.

66. On or about April 10, 2012, the State Bar sent Defendant a Letter of Notice in grievance file number 12G0289 regarding the grievance filed by G.S. by certified mail to the address listed in the State Bar Membership database. Defendant was required to respond to the letter of Notice within fifteen days of receiving the letter.

67. The Letter of Notice in grievance file number 12G0289 was signed for on April 11, 2012 by a member of Defendant's office staff.

68. Defendant did not respond to the Letter of Notice in grievance file number 12G0289 within fifteen days of service as required.

69. On or about May 7, 2012, the State Bar sent Defendant a follow up letter asking that Defendant respond to the Letter of Notice in grievance file number 12G0289 no later than May 18, 2012.

70. Defendant did not respond to the Letter of Notice in grievance file number 12G0289 by May 18, 2012.

71. On or about January 17, 2012, J.C. filed a grievance against Defendant with the State Bar, grievance file number 12G0046.

72. On June 29, 2012, a State Bar investigator personally served Defendant with the Letters of Notice in grievance file numbers 12G0046 and 12G0289. Defendant was required to respond to the Letters of Notice within fifteen days of receiving the letter.

73. Defendant did not respond to the Letters of Notice in grievance file numbers 12G0046 and 12G0289 within fifteen days of receipt as required.

74. On September 11, 2012, Defendant appeared at the State Bar in response to a subpoena issued pursuant to 27 N.C. Admin. Code Chapter 1, Subchapter B § .0112(f).

75. On September 11, 2012, Defendant provided the State Bar with responses to the Letters of Notice in 12G0046 and 12G0289. The responses were dated July 11, 2012.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) and (b)(3) in that Defendant violated the Rules of Professional Conduct in effect at the time of the conduct as follows:

- (a) By failing to timely respond to the Letters of Notice in grievance file numbers 11G0583, 12G0046, and 12G0289, Defendant knowingly failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b).

#### **FIFTH CLAIM FOR RELIEF**

76. Paragraphs 1-75 are re-alleged and incorporated as if fully set forth herein.

77. On August 2, 2010, A.P. was charged in Scotland County with speeding 58 mph in a 35 mph zone.

78. A.P. was cited to appear in Scotland County District Court on September 23, 2010.

79. Defendant sent a solicitation letter to A.P. at her address in Richmond County.

80. A.P. contacted Defendant's office and was quoted a fee of \$325.00 which would cover Defendant's fee, any fine, and court costs.

81. A.P. was informed that Defendant would continue the case while she made payments.

82. A.P. paid Defendant \$150.00 in September 2010, \$75.00 in November 2010, and \$100.00 in June 2011.

83. A.P. made all three of these payments by check. Defendant cashed the three checks.
84. In May 2010, Defendant maintained a trust account at RBC Bank ending in 6839.
85. Defendant did not deposit any monies received from A.P. into his trust account.
86. After completing her payments to Defendant, A.P. spoke with Defendant who informed her that he would take care of everything.
87. In the fall of 2011, A.P. learned that there were "papers" out on her for failing to appear in court on the speeding charge on which she had retained Defendant to represent her.
88. When A.P. contacted Defendant, he assured her that he had taken care of the speeding ticket and that there had been a mistake.
89. A few months later, A.P. learned that her driver's license had been suspended for failure to appear in court on the speeding charge.
90. A.P. attempted to contact Defendant and found that his office was closed.
91. In December 2012, A.P. spoke with Defendant who informed her that he was going to Scotland County the following day and would get to the bottom of the purported mistake regarding her case.
92. Defendant told A.P. to call him the following day.
93. A.P. called Defendant the following day as instructed, but Defendant did not answer the call.
94. A.P. tried repeatedly to reach Defendant but did not reach him until January 2013.
95. In January 2013, Defendant assured A.P. again that her matter had been resolved.
96. A.P. expressed concerns about her insurance being cancelled and Defendant told her that he would send her a letter stating that the ticket had been taken care of and her driver's license reinstated.
97. Defendant told A.P. to call him if she didn't receive the letter.
98. A.P. did not receive the letter.
99. A.P. called Defendant repeatedly and left many messages but never heard from Defendant nor did she receive the letter Defendant said he would send.

100. In February 2013, A.P. was charged with driving while license revoked. Her license was revoked as a result of her failure to appear in court on the speeding charge on which she had retained Defendant to represent her.

101. On or about March 13, 2013, A.P. filed a grievance against Defendant with the State Bar, grievance file number 13G0198.

102. On or about March 18, 2013, the State Bar sent Defendant a Letter of Notice in grievance file number 13G0198 by certified mail to the address listed in the State Bar Membership database. Defendant was required to respond to the Letter of Notice within fifteen days of receiving the letter.

103. The Letter of Notice in grievance file number 13G0198 was signed for on March 19, 2013 by a member of Defendant's office staff.

104. Defendant did not respond to the Letter of Notice in grievance file number 13G0198 within fifteen days of service as required.

105. On or about April 12, 2013, the State Bar sent Defendant a follow up letter asking that Defendant respond to the Letter of Notice no later than April 26, 2013.

106. Defendant did not respond to the Letter of Notice.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) and (b)(3) in that Defendant violated the Rules of Professional Conduct in effect at the time of the conduct as follows:

- (a) By failing to resolve A.P.'s speeding charge, Defendant failed to act with reasonable diligence in representing a client in violation of Rule 1.3;
- (b) By failing to respond to A.P.'s inquiries on multiple occasions, Defendant failed to promptly comply with a client's reasonable requests for information in violation of Rule 1.4(a);
- (c) By failing to deposit into his trust account the funds A.P. paid to Defendant, part of which was for payment of A.P.'s court costs and any fines imposed as a result of her traffic citation, Defendant failed to safeguard entrusted client funds in violation of Rules 1.15-2(a) and (b), and failed to deposit mixed funds intact in violation of Rule 1.15-2(g);
- (d) By using A.P.'s funds for the benefit of someone other than the beneficial owner of the funds, Defendant misappropriated entrusted client funds in violation of Rule 1.15-2(j), engaged in a criminal act showing professional unfitness 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);

- (e) By informing A.P. that he had resolved her speeding charge when he had not, Defendant engaged in conduct involving dishonesty, deceit, or misrepresentation in violation of Rule 8.4(c) and intentionally prejudiced a client in violation of Rule 8.4(g);
- (f) By misrepresenting to A.P. that he would send a letter informing her of the status of her case and driver's license, Defendant engaged in conduct involving dishonesty, deceit, or misrepresentation in violation of Rule 8.4(c) and intentionally prejudiced a client in violation of Rule 8.4(g); and
- (g) By failing to respond to the Letter of Notice in 13G0198, Defendant knowingly failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b).

#### SIXTH CLAIM FOR RELIEF

107. Paragraphs 1-106 are re-alleged and incorporated as if fully set forth herein.

108. On April 10, 2010, A.M.P. was charged in Scotland County with speeding 82 mph in a 60 mph zone.

109. A.M.P. was cited to appear in Scotland County District Court on May 18, 2010.

110. On or about April 13, 2010, Defendant sent a solicitation letter to A.M.P. at his address in Georgia.

111. A.M.P. contacted Defendant and Defendant agreed to represent him on the speeding charge for \$350.00 which would cover Defendant's fee, any fine, and court costs.

112. On or about May 19, 2010, A.M.P. mailed Defendant a money order for \$350.00.

113. Defendant negotiated the money order on or about May 24, 2010.

114. Defendant did not deposit the monies he received from A.M.P. into his trust account.

115. On or about January 25, 2011, Defendant obtained a charge reduction and entered a plea of guilty to speeding 69 mph in a 60 mph zone on A.M.P.'s behalf.

116. The presiding judge ordered that A.M.P. pay a \$100.00 fine and \$141.00 in court costs.

117. Defendant asked the court for additional time to pay A.M.P.'s court indebtedness and the court ordered that A.M.P. also pay a \$20.00 installment fee and ordered that the fine, costs, and installment fee be paid by March 4, 2011.

118. Defendant never paid A.M.P.'s court indebtedness.

119. Defendant did not notify A.M.P. of the disposition of the speeding charge.

120. In 2013, A.M.P. learned that his Georgia driver's license was suspended as a result of his failure to comply with the judgment in the speeding case on which he had retained Defendant to represent him.

121. A.M.P. attempted to contact Defendant but received no response.

122. On or about September 10, 2013, A.M.P. filed a grievance against Defendant with the State Bar, grievance file number 13G0821.

123. On or about September 10, 2013, the State Bar sent Defendant a Letter of Notice in grievance file number 13G0821 regarding the grievance filed by A.M. P. by certified mail to the address listed in the State Bar Membership database. Defendant was required to respond to the Letter of Notice within fifteen days of receiving the letter.

124. The Letter of Notice in grievance file number 13G0821 was signed for on September 11, 2013 by an individual as agent at the address listed in the State Bar Membership database.

125. Defendant did not respond to the Letter of Notice in grievance file number 13G0821 within fifteen days of service as required.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) and (b)(3) in that Defendant violated the Rules of Professional Conduct in effect at the time of the conduct as follows:

- (a) By failing to inform A.M.P. of the disposition of his case, Defendant failed to keep his client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3);
- (b) By failing to pay A.M.P.'s court indebtedness, Defendant failed to act with reasonable diligence in representing a client in violation of Rule 1.3, failed to promptly disburse entrusted funds to a third party in violation of Rule 1.15(m), intentionally prejudiced a client in violation of Rule 8.4(g), and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
- (c) By failing to deposit into his trust account the funds A.M.P. provided to Defendant, part of which was for payment of A.M.P.'s court costs and any fines imposed as a result of his traffic citation, Defendant failed to safeguard entrusted client funds in violation of Rules 1.15-2(a) and (b), and failed to deposit mixed funds intact in violation of Rule 1.15-2(g);



- (d) By using A.M.P.'s funds for the benefit of someone other than the beneficial owner of the funds, Defendant misappropriated entrusted client funds in violation of Rule 1.15-2(j), engaged in a criminal act showing professional unfitness 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); and
- (e) By failing to respond to the State Bar's Letter of Notice concerning grievance file number 13G0821, Defendant failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b) and failed to answer a formal inquiry issued by the North Carolina State Bar in violation of N.C. Gen. Stat. § 84-28(b)(3).

### SEVENTH CLAIM FOR RELIEF

126. Paragraphs 1-125 are re-alleged and incorporated as if fully set forth herein.

127. On or about May 17, 2013, the North Carolina State Bar Board of Continuing Legal Education mailed Defendant a Notice to Show Cause Re: 2012 Continuing Legal Education Requirements. The Notice indicated that Defendant was delinquent in satisfying his Continuing Legal Education (CLE) requirements for 2012.

128. Defendant was given thirty days from receipt of the Notice to Show Cause to file his 2012 Annual CLE Report Form showing compliance, with proof of completion of the CLE hours, and payment of \$300.00 or show cause why he should not have to do so.

129. The Notice to Show Cause also apprised Defendant that an order could be entered suspending his license to practice law should he fail to comply with the conditions set out in paragraph 128.

130. The State Bar sent the Notice to Show Cause to Defendant by certified mail at the address listed in the State Bar's Membership database.

131. On May 20, 2013, Defendant signed for the Notice to Show Cause.

132. On or about August 14, 2013, the Secretary of The North Carolina State Bar entered an Order of Administrative Suspension suspending Defendant's law license for failure to comply with the conditions set out in paragraph 128 as well as failure to pay 2013 membership fees and failure to make the IOLTA certification for the 2013 compliance year. The Order of Administrative Suspension was sent to Defendant by certified mail at his address of record with the State Bar's Membership Department.

133. On August 16, 2013, an individual signed as Defendant's agent the certified mail receipt for the Order of Administrative Suspension.

134. Under the terms of the Order of Administrative Suspension, Defendant's license to practice law in North Carolina was administratively suspended effective September 16, 2013.

135. On September 16, 2013, Defendant's thirty day wind-down period began and he was prohibited from accepting new legal fees or engaging in any new case or legal matter.

136. On September 18, 2013, M.L. went to Defendant's law office seeking representation on criminal charges. Defendant agreed to represent M.L. on the charges.

137. On September 18, 2013, M.L. paid Defendant the \$75.00 Defendant charged him for representation.

138. Defendant did not reveal to M. L. that his license was administratively suspended and that he was prohibited from accepting new legal fees or engaging in any new case or legal matter.

139. On October 9, 2013, the cases for which M.L. retained Defendant to represent him were set in Hoke County District Court.

140. M.L. appeared in court on October 9, 2013, but Defendant was not present to represent him.

141. Defendant did not notify M.L. prior to his court date that he could not represent him.

142. The State dismissed the charges on which M.L. had retained Defendant to represent him.

143. After leaving court, M.L. went to Defendant's law office.

144. Defendant informed M.L. that he had forgotten the court date.

145. Defendant did not refund the unearned fee.

146. On or about October 18, 2013, the State Bar sent Defendant a Letter of Notice regarding Defendant's representation of M.L., grievance file number 13G0939, by certified mail to the address listed in the State Bar Membership database. Defendant was required to respond to the Letter of Notice within fifteen days of receiving the letter.

147. The Letter of Notice in grievance file number 13G0939 was returned to the State Bar marked "unclaimed."

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct in effect at the time of the conduct as follows:

- (a) By undertaking to provide representation and accepting payment from M.L. for legal services at a time when his law license was administratively suspended, Defendant engaged in the unauthorized practice of law in violation of Rule

5.5(a), and accepted representation when the representation would result in a violation of the Rules of Professional Conduct in violation of Rule 1.16(a);

- (b) By failing to inform M.L. that his law license was suspended, Defendant made a false or misleading communication about his services in violation of Rule 1.7(a)(1) and engaged in conduct involving dishonesty, deceit, or misrepresentation in violation of Rule 8.4(c);
- (c) By failing to return to M.L. the unearned fee, Defendant violated Rule 1.16(d); and
- (d) By failing to appear at court on M.L.'s court date or otherwise notify M.L. prior to the court date that he could not represent him, Defendant failed to act with reasonable diligence in representing a client in violation of Rule 1.3, and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d).

WHEREFORE, Plaintiff prays that:

1. Disciplinary action be taken against Defendant in accordance with N.C. Gen. Stat. § 84-28(a) and § .0114 of the Discipline and Disability Rules of the North Carolina State Bar (27 N.C.A.C. 1B § .0114), as the evidence on hearing may warrant;
2. Defendant be taxed with the administrative fees and costs permitted by law in connection with this proceeding; and
3. For such other and further relief as is appropriate.

The 24<sup>th</sup> day of March, 2014.



Mary D. Winstead  
Deputy Counsel  
State Bar No. 9778  
The North Carolina State Bar  
P.O. Box 25908  
Raleigh, NC 27611  
919-828-4620

Attorney for Plaintiff